

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
New Hartford Town Hall – 530 Main Street  
Wednesday, October 13, 2021 at 7:00 PM**

**PRESENT:** Chairman Ted Stoutenberg, Mike Misiorski, Marty Post, Jim Steadman,  
Alternates John Burdick, Jack Casey, and Robert Goodskey;  
Zoning Enforcement Officer Mike Lucas, and Town Attorney Mark Branse.

**ABSENT:** Dan LaPlante.

Chairman Ted Stoutenberg called the meeting to order at 7:00PM. Mr. Goodskey was seated for Mr. LaPlante.

**1. PUBLIC HEARINGS:**

**A. Garrett Homes, LLC/Applicant – Satans Kingdom, LLC/Owner – Map 044 – Block 013 – Lot 020 – 173A Main Street – Special Exception – Retail Building – 9100 Sq. Ft. – 25% Deferred Parking.**

The legal ad for the public hearing was read into the record with it being noted as having run the requisite two times, on October 1, 2021 and October 8, 2021, in the Hartford Courant. Mr. Lucas confirmed that the Certificate(s) of Mail had been provided.

Attorney Robin Pearson of Alter and Pearson, LLC, accompanied by Professional Engineer Matthew Broutin of BL Companies and Architect Doug Bruner, appeared before the Commission regarding this application. Prior to beginning her team's presentation on the application, Attorney Pearson requested Mr. Steadman to recuse himself. She advised Mr. Steadman that he had made it abundantly clear that he opposed a Dollar General in New Hartford. She noted that she had meetings of her client's previous applications transcribed and read aloud two paragraphs from one of them. She opined that Mr. Steadman's comments evidenced a predetermination to not allow a Dollar General into town. Attorney Branse questioned whether Mr. Steadman's entire comments had been transcribed. Attorney Pearson confirmed. Attorney Branse entered into the record a complete transcription of all of Mr. Steadman's comments.

Attorney Branse reported that he had questioned Attorney Pearson whether the current application, the third one filed, was substantially different than the two previous applications, and indicated that she had thought it was. He questioned how, if the application is substantially different, a predisposition could be supposed for Mr. Steadman. Attorney Pearson posited that Mr. Steadman had consistently said that Dollar General, as a company, does not deserve to be in New Hartford. She noted that it was the characteristic of the tenant and not the site plan. Attorney Branse disagreed, referring to the transcribed comments, reported that Mr. Steadman had noted a number of issues and his discussion was not about how Dollar General operates but instead being a gateway to town. He advised the commission that Attorney Pearson was within her right to make this request and that the commission should harbor no negative thoughts towards the applicant because of the request.

Mr. Steadman apologized for remarks made in the past and clarified his position, explaining that he had been reviewing the criteria for a Special Exception and had not thought the applicant had met the criteria. He indicated that he was not predetermined and was looking forward to the review of the new site plan with the hopes that it will fit more into what the Town looks for in a Special Exception. Mr. Steadman read aloud from the zoning regulations, relaying the criteria that is to be considered.

Attorney Pearson noted that the proposed retail store is unlike the grocery store and that competition with an existing store should not be a factor for consideration.

Attorney Pearson reported having conferred with Mr. Lucas to have the prior records be included as part of this proceeding. She noted that it was important to include all the information on property values, communications, determinations, information regarding a water cistern, communications from the Department of Transportation (DOT) regarding the suitability of the site for an encroachment permit and access onto the road, and all of the changes made up to now at the request of the various commissions. Attorney Branse shared his concern with including the record of two whole applications and questioned whether transcripts were being included, too. He indicated that the transcripts do not exist currently. Attorney Pearson agreed that the transcript from the first hearing, which is not ready, not be included. After some further discussion, Attorney Pearson agreed that what was being sought to be included in the record for this application was what was in the file for the second application and the digital recording for that application but not a transcript. Attorney Branse had no objection with that until Attorney Pearson had suggested the testimony on the cistern also be included. Mr. Stoutenberg questioned whether the Commission was supposed to remember everything that had been discussed and presented with the former application. Attorney Pearson confirmed, noting that had been done between the first and second application. She indicated that the applicant's team would bring in a list of all the documents that they would like considered from the second application.

Attorney Pearson explained that this application can be approved if the Commission finds there to be a substantial change to the last application that was denied. Additionally, the applicant had modified the plans to address the concerns that were cited for reasons of denial, according to Attorney Pearson. As she was describing the changes made in response to those reasons, Mr. Stoutenberg questioned whether there was a new application before them and whether it would be reviewed. She continued, noting the drive aisle was widened from 34' to 37', the parking stalls were reduced from 20' in length to 18' in length, which served to eliminate the need for a tractor trailer delivery truck to encroach any parking spots, and a crosswalk had been added to enhance pedestrian safety in parking and align it with the building's main entrance. She noted that the roof had been changed from a flat roof with a partial gable to a full pitch roof with a partial flat area.

Mr. Broutin reviewed the changes that were made to the plans. He noted that based on prior comments, his firm eliminated the driveway connection to Main Street and were still showing a common connection access drive. Mr. Broutin indicated that the former DOT approvals remain from the first and second application. He noted that the building size is the same. Parking was shown to include 48 parking spots with the handicap parkin spaces close to the main entrance, according to Mr. Broutin. He reminded the Commission that a 25% deferral on the required parking is still being sought in an effort to reduce the total impervious surface, a reduction in 12 parking spaces.

The drive aisle, to allow better truck delivery access, has been widened from 34' to 37', according to Mr. Broutin. He explained that to accomplish this, the parking spots along the front were reduced from 20' to 18'. Mr. Broutin noted that the 18' length is all that is required by the Zoning Regulations. A crosswalk was also added along the drive route, according to Mr. Broutin. He noted that a snow shelf has been added to the perimeters on the south and north of the site.

Mr. Broutin indicated that the stormwater management plan had been submitted which complies with the 2004 Stormwater Manual and the 2002 Sediment and Erosion Control Guidelines. He noted that the system was generally under the parking lot and that it was designed to connect to the DOT's system in Route 44. He noted that this approval had been reviewed already with the encroachment permit. Additionally, Mr. Broutin reported that the engineer who reviewed the application as part of the Inland Wetlands portion of the process was reengaged and found that the stormwater management planned was appropriate for the development. Mr. Broutin indicated that no variances were necessary for this development. He noted that utilities are available, including a required septic system, a well, and propane.

Mr. Broutin indicated that the Planting Plan has not been changed, noting that it has been designed in such a manner to be irrespective of a decision on the parking deferral.

Mr. Bruner reviewed the architectural drawings, pointing out the differences between the past application(s) and this current proposal. He noted that in the former version, the gabled roof is only a half design and a flat roof in the rear. The new design includes a full-pitch gable, covering the entirety of the roof, so that all four sides of a gable is evident, according to Mr. Bruner. A darker clapboard and roof vents are part of the new design. He noted that a red-brick base is part of the design with a two-tone layer of clapboard above. Mr. Bruner indicated that there had been a question about how the roof would drain and he noted that the current design reflects three downspouts.

Mr. Stoutenberg questioned whether Mr. Bruner had with him a proposed floor plan. He indicated that he did not. A floor plan was pulled from the submitted plan set and Mr. Bruner reviewed the doors and what they lead to. Mr. Stoutenberg questioned the location of the windows. Mr. Bruner noted that there are window boxes but indicated that they are not actual transparent windows. Mr. Stoutenberg questioned whether what was proposed was an actual window and not just a painted piece on a wall. Mr. Bruner confirmed that they were actual windows. Mr. Stoutenberg questioned a door designation. Mr. Bruner indicated that it was an insulated door frame X8 and was a hollowed-out door frame. Mr. Stoutenberg characterized the drawings as sloppy.

Mr. Stoutenberg questioned Mr. Bruner on the square footage of the proposed building listed on the site plan. Mr. Bruner indicated that the site plan reflected 9100 square feet. Mr. Stoutenberg questioned the dimensions of the building. Mr. Lucas indicated the plans reflected 130'x70'. Mr. Stoutenberg questioned where the bump-out on the front of the building was accounted for. Mr. Bruner indicated where it was shown on the drawings. Mr. Stoutenberg questioned where it was included on the site plan. Mr. Bruner indicated that the longest part of the building was 130' and the shortest part of the building was 70', but that the total square footage included the bump-out.

Mr. Stoutenberg questioned the doors as depicted on the front elevation drawing, noting that they were indicated on that plan as sliding doors as compared to the floor plan. Mr. Bruner explained the doors have to be shown as swinging doors for life-safety purposes. Mr. Bruner confirmed that they are sliding doors but in the event of a power loss, they could swing out.

Mr. Post questioned whether the shingle portion of the southern exposure would be black. Mr. Bruner confirmed that they would be shingled all the way.

Attorney Branse questioned whether the dimensions of the wall sign were shown. Mr. Bruner indicated that they were not. Mr. Bruner indicated that the sign was sized according to the bylaws. Attorney Branse reminded the Commission of his seventh memo, from July, in which

he had six pages of items that were missing from the application and that this was cited as one of them. He questioned whether the applicant's team intended to review Attorney Branse's memo to address which of those items have been included. Mr. Broutin indicated that the memorandum was addressed during the discussion on the second application. Mr. Broutin noted that the detail of the pylon sign and the detail of the building signage is on the civil plans as Sheet D and 4.

Mr. Stoutenberg questioned whether the applicant planned to submit anything on the proposed parking deferral that was different than what the commission already had. Mr. Broutin noted that the plan indicated that all of the required parking could be fit, though he reminded the commission that at 25% deferral was being sought. Mr. Stoutenberg referenced Section 6.2.E.5. of the Zoning Regulations regarding "*...sufficient evidence needing to be presented in the judgment of the commission to show the reduced parking facilities will adequately serve the proposed use...*" Attorney Pearson noted that her clients still stand perplexed on the basis of the Commission's denial of the waiver. She opined that it was not in the best interest of the community to deny the waiver, reminding the commission that it was a temporary waiver. Attorney Pearson reminded the commission that the evidence presented for the parking waiver were photographs of the site at various times during the day showing eight to ten parking spaces being used. She provided her own personal testimony of her observations of the Dollar General in Coventry having even fewer cars at different times during the day. Attorney Pearson read aloud the Minutes from an Architecture Review Committee meeting. Mr. Broutin noted that the parking deferral would be beneficial in terms of snow storage. He noted that if the deferral is not granted, his client was willing to install signage at the end of the drive aisle to alert snow plow drivers to not pile snow in that area so as to have no effect on the southern abutter. Attorney Pearson indicated her clients would be agreeable to a condition that any excess snow would need to be removed from the site in the event that there is no room.

Attorney Pearson confirmed that the Inland Wetlands Commission had granted approval in February and reported that a letter had been sent to them detailing the changes made to the site plan. She noted that Mr. Lucas, as the Wetlands Agent, provided that board with a letter indicating that these changes fall inside the current wetlands permit and that board concurred.

Attorney Pearson reviewed the proposed conditions of approval that were considered as part of the last application. She noted that her client is amenable to all of them except for the ones that have been addressed with the latest approval.

The Planting Plan was discussed. Mr. Stoutenberg referred the applicant to the Zoning Regulations as they relate to specimen trees. Attorney Pearson noted that her client would be willing to utilize specimen trees.

Mr. Stoutenberg questioned Attorney Branse on whether landscaping, such as trees, could be planted in the easement. Attorney Branse indicated that it depended on how the easement reads.

Mr. Stoutenberg questioned whether the applicant was amenable to providing the Fire Department with a lock box. Mr. Broutin indicated that they were.

The hearing was open to the public.

Shelly Lloyd of 29 Pioneer Drive spoke in opposition of the application, opining that this application was not significantly different than the previously denied application. She also

opposed the requested parking deferral and indicated the size of the building was too large for this parcel.

Polly Pobuda of 23 Church Street spoke neither in support nor in opposition of the proposal. Ms. Pobuda referenced the Inland Wetlands Commission Minutes wherein a recreation area had been discussed. She questioned where the parking might be for that recreation. Ms. Pobuda recalled mention of an increase in the wetlands following this project.

Mr. Broutin noted that the application had included a trail along the front of the property. He indicated that there would be no increase in wetlands but there would be an increase in runoff due to the impervious surface designed. He noted that was the reason behind the stormwater management plan.

Attorney Pearson referred to the Zoning Table in response to comments made that the development was too large for the lot.

**MOTION:** Mr. Steadman, Mr. Post second, to continue the public hearing to the November 10, 2021 regular meeting at 7PM; unanimously approved.

The commission recessed at 8:45PM. They reconvened at 8:53PM.

## **2. PENDING APPLICATIONS:**

**A. Garrett Homes, LLC/Applicant – Satans Kingdom, LLC/Owner – Map 044 – Block 013 – Lot 020 – 173A Main Street – Special Exception – Retail Building – 9100 Sq. Ft. – 25% Deferred Parking.**

As the public hearing was continued, no business was discussed.

## **3. NEW BUSINESS:**

None.

## **4. OTHER BUSINESS TO COME BEFORE THE COMMISSION:**

**A. Workshop on Planned Housing Development Zoning Amendment with Attorney Mark Branse.**

Tim Brobroske, accompanied by Land Surveyor Todd Clark of Clark Land Surveying, LLC, appeared before the commission regarding this application.

Mr. Clark reported his client had initially envisioned a road loop coming in to access the various properties. He explained that this did not prove feasible to make the turn and go up the hill. He indicated this property would lend itself to development in one area and conservation in another. Mr. Clark explained that the slope limits contained in the Zoning Regulations, 20% for public roads and 12% for private roads, would not allow them to make the turn. Mr. Clark noted that Lenard Engineering had done some significant work on this property on behalf of the town, explaining that they had laid out a road coming in from the existing parking lot on the adjoining lot. However, his client's deed limits him to only the first 300' of that property, according to Mr. Clark. He noted that the road will have to come off the existing park to make the design work.

Attorney Branse questioned whether Mr. Clark when referring to the work undertaken by Lenard Engineering was the same that the commission had reviewed in June. Mr. Brobroske explained that his company has been working with the Town, noting that the Board of Selectmen would like them to promote as much development as his company could, and at the time, the former owner of the Waring property, had been considering allowing them to use their property for the access. It was noted that on that property, there was a 100' easement to allow Mr. Brobroske to

access his subject site. He explained that if they needed to go to court on this with that owner, there may be a delay in the project. As an alternative, Mr. Brobroske reported, he provided instruction to Lenard Engineering to be at the north edge of the 300' strip of available land on the Waring property. They will be able to utilize 100' of a subject 300', according to Mr. Clark. Mr. Clark indicated a boulevard entrance will be utilized. He explained it will be a 50' entrance ingress with a 10' median and 15' egress road. Two lanes will be for entrance and one lane for the exit, according to Mr. Tim.

Mr. Clark briefly reviewed possible stormwater management plans. Mr. Stoutenberg noted that he had a predevelopment meeting with the owner, First Selectman Dan Jerram, and Mr. Lucas. He reviewed the design options that were discussed.

Noting that this commission was attempting to draft a regulation for this development project, Mr. Stoutenberg questioned what density Mr. Brobroske was intending. Mr. Clark indicated the goal was for 100 units on 50 acres. It was noted that it was supposed to be buildable acres. Mr. Clark noted that, excluding the steep slope and an allowance for wetlands, he estimated the buildable area as 36 acres.

Mr. Stoutenberg noted that the following meeting would be another workshop on drafting a floating zone.

**5. APPROVAL OF MINUTES: September 22, 2021.**

**MOTION:** Mr. Post, Mr. Steadman second, to approve the September 22, 2021 Minutes; unanimously approved.

**6. ZONING OFFICERS REPORT.**

No business was discussed.

**7. CORRESPONDENCE:**

**MOTION:** Mr. Misiorski, Mr. Steadman second, to adjourn at 9:32PM; unanimously approved.

Respectfully submitted,  
Pamela A. Colombie  
Recording Secretary