

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, September 11, 2019 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Ted Stoutenberg, David Krimmel, Dan LaPlante, Marty Post, and Alternates Tom McLoughlin and Mike Misiorski,  
Zoning Enforcement Officer Mike Lucas and Zoning Consultant Rista Malanca.

**ABSENT:** Jim Steadman and Alternate Peter Ventre.

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

**1. PUBLIC HEARINGS:**

None.

**2. PENDING APPLICATIONS:**

None.

**3. NEW BUSINESS:**

None.

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

**A. John M. & Debra Burdick – Map 031 – Block 031 – Lot 10-1 – 220 Town Hill Road – Review of Proposed Agricultural Split Map.**

Mr. Stoutenberg reported that John Burdick was looking to split his +/- 7-acre parcel into a three-acre lot for his home and preserving the balance of his land for agricultural land. Mr. Stoutenberg explained that he learned this summer that an agricultural split is allowed pursuant to Connecticut General Statutes without review by the Planning and Zoning Commission. He noted that he had previously signed the map when presented with it by Mr. Burdick.

Mr. Stoutenberg reported that First Selectman Administrative Assistant Christine Hayward had consulted with the commission's land use attorney, Mark Branse, who had prepared a motion to accept the agricultural division of land on Town Hill Road, Route 219 as prepared by Berkshire Engineering and Surveying, LLC, dated 07/11/2019, prepared for John M. & Debra Burdick as an exempt division and to ratify the signature of the chairman of the Planning and Zoning Commission as signed on July 18, 2019.

Mr. Stoutenberg noted that the mylar was already filed with the Town Clerk, but the Town Assessor questioned the word "Proposed" as included on the map. Mr. Jerram reported that he spoke with the Town's legal counsel who had indicated that the acceptance or rejection of the map lays solely with the Planning and Zoning Commission. Mr. Jerram also reported that the attorney had indicated that the determination of agricultural splits and the acceptance of maps is solely at the discretion of this commission. He indicated that passing the motion is an abundance of caution as this group will ratify the signature and accept the map as is. Mr. Jerram reported that he has correspondence from counsel saying that the assessor's characterization of the wording is irrelevant.

Mr. Krimmel questioned whether the purpose of the map was to declare the second parcel on the map as open space and to avoid the taxing of it as a residential lot. Mr. Stoutenberg confirmed.

**MOTION:** Mr. Post, Mr. Misiorski second, to accept the agricultural division of land on Town Hill Road, Route 219, New Hartford, Connecticut as proposed, as prepared by Berkshire Engineering and Surveying, LLC, dated 07/11/2019, prepared for John M. & Debra Burdick as an exempt division and to ratify the signature of the chairman of the Planning and Zoning Commission as signed on July 18, 2019; unanimously approved.

**B. Request from Lansford Perry (Individually and as Manager of The Man Who Don't Know Much, LLC) for Informal Discussion of POCD, Zoning and Planning and Regards to 10 Litchfield Turnpike and Map 043 – Block 047 – Lots 345A – 345B & 345C Main Street.**

Lansford Perry appeared before the Commission to discuss two parcels of undeveloped land that he owns. He began his discussion with historical information on the Litchfield Turnpike land. Mr. Perry presented with a series of historical aerial maps of that parcel including ones from 1874, 1934, 1951, 1960, 1965, 1970, 1986, and 1995. He noted that it is just above the Canton transfer station. Mr. Stoutenberg questioned whether Mr. Perry was seeking to change the zoning of the lot to industrial as it is currently zoned residential. Mr. Perry noted that this would likely be what he was seeking.

Mr. Perry noted that the Litchfield Turnpike land was conveyed to him along with a portion of it that is located within Canton and is zoned industrial. The Canton portion has access to a good highway, is in the sewer shed of Canton, would have access to municipal water of Canton, and access to natural gas. Mr. Perry noted that his parcel still needs to be surveyed.

Mr. Jerram noted that he has been having discussions with Mr. Perry about possible Rails to Trails use on his parcel and explained that Ramp Road is a road in Canton.

Additionally, Mr. Perry reviewed land that he owns on Main Street. He noted that it is the former Connecticut Sand and Gravel pit that Allan Borghesi used to own. Discussion ensued regarding which parcels on Main Street were being considered. Mr. Post relayed his preference for maps when reviewing the parcels.

There was initial confusion over where on Main Street Mr. Perry owned three lots and what he was seeking to do on the land as it was already zoned industrial. Mr. Perry explained he was looking for good ideas for the Main Street parcels as part of an informal discussion in terms of what the Commission would like to see for it. He presented a picture of the building that was recently built by Jeff McLellan at 1 Main Street which is located near his three parcels.

Referring to the Litchfield Turnpike property, Ms. Malanca noted that the Commission may want to give Mr. Perry feedback on whether he should continue with contracting surveys for the area and try to work with the Selectmen of both New Hartford and Canton for the purposes of inter-municipal agreements for utilities. Mr. Perry outlined reasons why the Litchfield Turnpike parcel is not best served by being zoned residential noting the distance it would involve in bussing children to the schools from that distance and the snow removal problems.

Referring to the Main Street property, Mr. Perry noted that he was attempting to determine what is legally permitted. He presented with photographs of his dairy farm and his brother's dairy farm in Canton Center on Route 179 showing an esker as part of a gravel pit that the State of Connecticut undertook in that area. Mr. Perry noted that after the improvements made by Borghesi in 2014, there were similar piles of dirt on his property.

Mr. Perry noted that at one point there was talk that there ought to be a pad for a similar building on his property as the one built on the adjacent property. He noted that it would bring the area down to a much lower elevation of Route 44 and to do that would require the removal of a lot of earth. Mr. Perry reported that his research led him to review minutes dating back to 1932 and found that this parcel is approved for a sand and gravel plant by virtue of a vested right to build a plant to process sand and gravel. He explained that his assumption is that he will go to the Zoning Enforcement Officer for a building permit to build a sand and gravel plant because he has a right to build one. Mr. Post questioned the date of the right that Mr. Perry referenced. He indicated that it was from June 4, 1956. Mr. Post questioned whether it was a sand and gravel plant. Mr. Perry indicated that it was, noting that he has pictures. Ms. Malanca explained that if Mr. Perry wanted to do a sand and gravel operation in this industrial zone, it is allowed through a Special Exception. Mr. Perry opined that he already has that right. Ms. Malanca noted that even if there was already a vested right, sand and gravel operations have to be renewed every two years. Mr. Perry disagreed, noting that he had reviewed the Zoning Regulations, has read case law and has litigated in courts and believed he has a vested right to a sand and gravel operation. He noted that if his zoning permit were denied, he would then go to the Zoning Board of Appeals and if rejected there, would sue the Town. Ms. Malanca explained that if he were to submit an application, it would be reviewed by the Town's legal counsel. Mr. Perry agreed to write a legal brief. Mr. Stoutenberg noted that it would be passed on to the town's attorney.

Mr. Perry noted that his conversation with this commission was to determine whether the Town would prefer to see a couple buildings there, opining that this is an ideal location for a sand and gravel pit as it is not located near any residence. Ms. Malanca questioned whether his permit request would be just to get rid of the current stockpile or additional work beyond that. He noted that initially it would be just to get rid of the current 10,000 to 15,000 cubic yards currently there.

Mr. Krimmel opined that the best possible use of the land, as far as New Hartford is concerned, is worthy of discussion. He noted that the proposal discussed is not the first time a developer has taken a property that was formerly a sand and gravel operation and converted it for commercial purposes.

Mr. Stoutenberg advised Mr. Perry to submit what he deemed to be appropriate paperwork and it would be reviewed by the town's legal counsel.

### **C. Discussion of Subdivision Regulations.**

The Commission concluded their discussions on changes to the Subdivision Regulations with *4.3.13 Private Streets* wrapping up their review. They had agreed not to include a number on the maximum number of lots for private streets so long as the developer can meet the density requirements and the private road is built to town standards.

The consensus of the Commission was to schedule a public hearing for the second regular meeting in October.

### **5. APPROVAL OF MINUTES: July 10, 2019 & August 14, 2019.**

**MOTION:** Mr. Post, Mr. Misorski second, to approve the July 10, 2019 Minutes; unanimously approved.

**MOTION:** Mr. Post, Mr. LaPlante second, to approve the August 14, 2019 Minutes; unanimously approved.

**6. ZONING ENFORCEMENT OFFICER'S REPORT:**

The Commission was provided with a report prepared by Mr. Lucas detailing dates, locations, possible violations, action and inspections, and a current status. Mr. Lucas had handled several violations involving unpermitted signs. The Commission praised Mr. Lucas for preparing this report, with Mr. Stoutenberg commending his effort and noting that no predecessor had ever provided the Commission with information on enforcement in a written report like this.

**7. CORRESPONDENCE:**

None.

**MOTION:** Mr. Post, Mr. LaPlante second, to adjourn at 8:18PM; unanimously approved.

**Respectfully submitted,**

**Pamela A. Colombie**  
**Recording Secretary**