

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, October 23, 2019 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Chairman Ted Stoutenberg, Dan LaPlante, Martin Post, Jim Steadman Alternates Tom McLoughlin and Mike Misiorski; Zoning Enforcement Officer Mike Lucas, Consultant Rista Malanca, and Land Use Attorney Mark Branse.

**ABSENT:** David Krimmel and Alternate Peter Ventre.

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

**1. PUBLIC HEARINGS:**

**A. Town of New Hartford – Proposing Changes in the Zoning Regulations to the Following Sections: 3.4 E & 3.4.H.4 to Allow Propane Tanks, HVAC and Emergency Generators within front or side yard setbacks by Zoning Permit.**

The legal notice for the public hearing was read into the record with it noted as having run the requisite two times in The Hartford Courant on October 11, 2019 and October 18, 2019.

Ms. Malanca explained that the proposed change was for instances wherein non-conforming houses seek to install propane tanks or a condenser unit for HVAC, and/or an emergency generator without having to seek a Special Permit. She noted that only a zoning permit will be necessary under the proposed modification to the zoning regulation. She explained that the regulation will require those items to still be located within twenty (20') feet of the principal structure, located a minimum of five (5') from the property line, and to be screened from the public right of way. Mr. Lucas reported that the proposed modifications have been forwarded to the Northwest Hills Council of Governments, who found no apparent conflict with the regional plans or policies.

The hearing was open to the public. No comment was received.

**MOTION:** Mr. Steadman, Mr. Misiorski second, to close the public hearing; unanimously approved.

**B. Town of New Hartford – Revisions to Subdivision Regulations.**

The legal notice for the public hearing was noted as having run the requisite two times in The Hartford Courant on October 11, 2019 and October 18, 2019.

Mr. Stoutenberg indicated that the revisions to the subdivision regulations have been revised to align with the Zoning Regulations, notably changes to roadway constructions and drainage. Mr. Lucas reported that these proposed modifications were also forwarded to the Northwest Hills Council of Governments, who found no apparent conflict with the regional plans or policies.

The hearing was open to the public. No comment was received.

**MOTION:** Mr. Steadman, Mr. Post second, to close the public hearing; unanimously approved.

**MOTION:** Mr. Steadman, Mr. Post second, to take up Discussion of West Hill Lake Overlay Regulations ahead of Pending Applications; unanimously approved.

## **2. DISCUSSION:**

### **A. Discussion of West Hill Lake Overlay Regulations.**

Mr. Stoutenberg noted that the discussion would be a workshop session for the Commission and their land use attorney only. Attorney Branse noted that he was provided with a copy of the September 25, 2019 Minutes wherein the proposed changes to the West Hill Lake Overlay Regulations were discussed. He noted that he had not received a red-lined version. He explained that after receiving two copies of changes, he wrote to the Commission with concerns that he had with what he had reviewed. Attorney Branse shared his observation that it had appeared that large sections of the regulation were being deleted and what remained did not fit together. He noted that he just wasn't sure how this was going to work based on the language that was left. Since that time, Attorney Branse explained that he had the opportunity to review with Ms. Malanca about issues residents were facing as they sought permits. However, Attorney Branse opined that there were still proposed changes that appeared to transcend what he understood the problems to be.

Ms. Malanca explained that based on what she was seeing for applications, she thought that the Commission may want to change the regulation so it's less prescriptive and more performance-based. She noted that there are different soil types around the lake. Ms. Malanca noted that under the current regulation, if a proposed activity required even only a zoning permit, then the entire site needed to comply fully, including the installation of a seventy-five (75') foot vegetative buffer.

Ms. Malanca explained that with a zoning permit in this zone with the proposed modification, the applicant will still have to comply with the general standards, but those standards would no longer require a seventy-five (75') foot buffer strip. However, they would still need to comply with the stormwater management plan, according to Ms. Malanca. She noted that the need for a site plan would be triggered with a disturbance of 2,000 square feet or more than 30% impervious surface.

Ms. Malanca also questioned the restrictions pertaining to docks.

The Commission reviewed the marked-up version of the regulation provided by Attorney Branse. They agreed with the version provided by Attorney Branse on 5.7.a through 5.7.e. Attorney Branse questioned the language in 5.7.f. and had suggested "...*than 2,000 square feet, cumulatively, commencing on the effective date of this Section 5.7...*" rather than "...*at any time...*". The Commission agreed.

The Buffer Strip contained in *Standards and Requirements Section G1* was discussed. The consensus of the Commission was to modify the seventy-five (75') foot buffer to fifty (50') feet. Attorney Branse noted that despite the setback being fifty feet, the Commission had likely adopted the seventy-five foot buffer so that if a property owner was to expand their footprint within the seventy-five foot buffer, they would be obligated to compensate with plantings somewhere else within the buffer area.

With regards to the driveway section of this regulation, Ms. Malanca proposed replacing both paragraphs in 5.7.G.2.a and 5.7.G.2.b. with the following: "...*If not governed by Section 5.7.F., new driveways or repairs or improvements to existing driveways to lakefront properties in the R-4 Residence District shall be constructed of appropriate materials based upon an approved site stormwater management plan. All runoff from new driveways or improvements to existing driveways must be directed to an appropriate Low Impact Development stormwater management system to treat and infiltrate the runoff from the driveway surface...*" Attorney

Branse noted that the stormwater management plan ought to be according to Section 6.8. He noted that this section needs to be modified, too, so that a ZEO would not be obligated to require an engineered plan in every case. Attorney Branse recommended against the language as drafted, in terms of "...as appropriate...".

The language on docks was then reviewed. Ms. Malanca opined that it was too restrictive, noting that in some cases the current language does not allow some people a long enough dock to allow their boat a reasonable water depth. Mr. Stoutenberg disagreed, noting that a boat can float in two or three feet of water. Mr. McLoughlin recalled that the language regarding the docks was to prevent people from putting a grill and cabana out on them and to maintain the character of the lake. Attorney Branse noted that some communities regulate the length of docks by permitting them to be as long as necessary to reach a certain depth of water, such as three feet.

The Commission recessed at 8:06PM and resumed their meeting at 8:11PM.

The Stormwater Quality section was reviewed. Ms. Malanca had a version prepared that she proposed to replace the current language. Attorney Branse referred to Paragraph 'd' of this section as being problematic for a zoning enforcement officer, notably, "...to the extent feasible...". He suggested leaving stormwater quality the way it was and to keep the language on the buffer strip and use whatever reasonable footage the Commission decides upon, be it seventy-five or fifty. Attorney Branse noted that this would keep the compensatory piece that was the intention of the overlay. He explained that it includes the language to "trap sediment".

The Commission reviewed Section 6.8 and was okay with Attorney Branse's recommendation to add "or the Zoning Enforcement Officer, as the case may be".

The buffer was discussed. Attorney Branse pointed out that reducing a non-conformity on a lot is a legal ground for a variance.

Mr. Stoutenberg requested that Mr. Lucas consult with Attorney Branse on G.1.C. to draft the modification.

### **3. PENDING APPLICATIONS:**

#### **A. Town of New Hartford – Proposing Changes in the Zoning Regulations to the Following Sections: 3.4 E & 3.4.H.4 to Allow Propane Tanks, HVAC and Emergency Generators within front or side yard setbacks by Zoning Permit.**

**MOTION:** Mr. Steadman, Mr. Post second, to approve the proposed changes to the Zoning Regulations to the following sections: 3.4 E & 3.4.H.4 to Allow Propane Tanks, HVAC and Emergency Generators within front or side yard setbacks by Zoning Permit, effective November 1, 2019; unanimously approved.

#### **B. Town of New Hartford – Revisions to Subdivision Regulations.**

**MOTION:** Mr. Steadman, Mr. Post second, to approve the proposed changes to the Subdivision Regulations, effective November 1, 2019; unanimously approved.

### **4. NEW BUSINESS:**

None.

### **5. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

None.

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

Mr. Lucas reported responding to a complaint on 438 Main Street regarding additional signs and that most of those things have been cleaned up. He explained that the owner will be coming in soon with an application for mixed-use at that location to include a record shop.

Additionally, Mr. Lucas reported having completed all of the CAZEO training but for the case study. He noted that a grant had been received and Anchor Engineering has been retained to do a trail study.

**7. CORRESPONDENCE:**

None.

**8. MINUTES:**

**MOTION:** Mr. Steadman, Mr. Stoutenberg second, to approve the September 25, 2019 Minutes; unanimously approved.

**MOTION:** Mr. Steadman, Mr. Post second, to adjourn at 8:55PM; unanimously approved.

**Respectfully submitted,**

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