

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
Wednesday, September 27, 2017 at 7:00 PM
New Hartford Town Hall
530 Main Street, New Hartford, Connecticut**

PRESENT: Ted Stoutenberg, David Krimmel, Dan LaPlante, Bob Moore, Jim Steadman, Alternate Marty Post; Zoning Enforcement Officer Ruth Mulcahy.

ABSENT: Dan LaPlante, Alternates Tom McLoughlin and Peter Ventre.

Chairman Ted Stoutenberg called the meeting to order at 7:02PM.

Mr. Post was seated for Mr. LaPlante.

1. PUBLIC HEARINGS:

A. Public Hearing on Act Concerning Temporary Health Care Structures. (Public Act No. 17155).

Ms. Mulcahy read the legal notice for the Public Hearing into the record, noting that it was published the requisite two times, September 16, 2017 and September 22, 2017 in a newspaper with local circulation.

Mr. Stoutenberg explained that the public hearing was scheduled in order to discuss and consider Public Act #17155, recently adopted by the State of Connecticut legislature. Temporary health care structures will be permitted within towns, by right, as of October 1, 2017. Mr. Stoutenberg pointed out the likely intention of this initiative, in providing folks to care for family members who may have an injury or illness, but also noted the ambiguities within the law, including the frequent use of the word “may” in regulating the temporary structures. He explained that the legislation allows towns to opt out if done so by October 1st, provided a public hearing is held by the town’s Planning and Zoning Commission and is then taken up by the Board of Selectmen.

Ms. Mulcahy read aloud a correspondence from Donna LaPlante of 77 Steadman Road in favor of the Act. Ms. LaPlante cited her own experience with her mother-in-law living at her home for five years, noting that experience allowed additional time with family rather than a nursing home.

Denton Butler, Chairman of the Water Pollution Control Authority, appeared before the Commission, taking a position neither in favor nor in opposition to the Town opting out. He noted that one item to consider in that regard should include whatever impact an additional structure may present in terms of providing water and sewer to it, especially on very small lots.

Attorney Mark Branse, legal counsel to this Commission, reported that a number of his firm’s client towns have opted out. He noted that he had relayed to them that he was uncomfortable with the way the Act is written, noting that the language contained within it provides for “...permit to be approved by the municipality...”. Attorney Branse explained that he is unsure whether that would be this Commission, the Zoning Enforcement Officer, or the Board of Selectmen.

Attorney Branse reported that Killingly is opting out of this act but is simultaneously adopting their own version of the regulation, treating it like a site plan. He noted that opting out is a

matter of policy for this Commission. He reported that he is not opposed to the concept for these structures but does have concerns with lack of procedure controls of the legislation.

MOTION: Mr. Steadman, Mr. Post second, to close the public hearing in the matter of Public Hearing on Act Concerning Temporary Health Care Structures. (Public Act No. 17155); unanimously approved.

2. HEARING:

A. Hearing to Void the Flanders Crossing Subdivision and to Call the Public Improvements Bond for Flanders Crossing Subdivision Located on Ramstein Road Owned by Sunlight Construction Ramstein LLC.

It was explained that the subdivision exceeded its time limits on February 27, 2017. Attorney Branse explained that Connecticut General Statutes provide that the subdivision automatically expires but noted that the Commission must file something on the Land Records. He noted that the Commission has the option of calling the bond and doing whatever work it can do for that bond amount. Attorney Branse explained that the statutes do not require a hearing but his firm typically recommends that commissions hold one as a matter of due process under the constitution.

Attorney Joe Williams of Shipman and Goodwin appeared before the Commission on behalf of his client, Sunlight Construction Ramstein LLC, and Bill Ferrigno, the principal of that company, the developer of this subdivision. He reported that Mr. Ferrigno was tending to serious personal medical issues, and was unable to make the hearing upon advisement of his doctor. Attorney Williams reported that Mr. Ferrigno would like to complete the road and intends to honor his obligations. He explained that the subdivision is under water financially but that Mr. Ferrigno has the money to finish the work with the subdivision, noting though that it is tied up in a cash bond for the project, a sum of \$48K. Attorney Williams referenced a written request on behalf of Mr. Ferrigno, seeking an extension on the subdivision so that the work can be completed.

Attorney Williams reported having received the day prior to this hearing, a list, put together by the Town's consulting engineer, of items that need to be completed. He explained that his client would like to have his own expert review the binder course that exists on the road currently and identify whether there are any areas that have worn or cracked and need to be repaired. Attorney Williams indicated that he has been advised that the current residents of Flanders Crossing are unable to locate their mailboxes at their driveways until the road has been accepted by the Town. With Mr. Ferrigno completing the road and guide rail, it would likely be less expensive than if the Town were to complete the road, Attorney Williams explained.

Attorney Williams suggested that his client and his client's engineer meet with the Town consulting engineer within one week to figure out what repair work is necessary to the binder course. His client will abide by whatever is the resulting consensus of the two engineers and will complete the work provided the asphalt plants are still open, according to Attorney Williams. He noted that his client would like to have the remaining bond money released fairly quickly so that he could pay for the road work.

Mr. Stoutenberg questioned why the Commission would be inclined to reduce the bond. Attorney Branse explained that the ordinance does not require that the entire bond be held for one year. He noted that there is a maintenance bond, which the town engineer recommends as 10% of the original amount and in this case, is \$16K. A new written estimate for completion of the remaining work, as prepared by the Town's consulting engineer, was reviewed by the

Commission and Attorney Williams. Ms. Mulcahy noted that the town's engineer estimated the cost of the work that needs to be completed as \$56,400.

First Selectman Dan Jerram reported that there is no estimate for legal fees that will be incurred as part of the transfer of the open space and that there are questions relative to the drainage rights at the end of the road.

Bill DeDominicis of 26 Flanders Crossing, reporting that he has resided there for the past 8 years 10 months, implored the Town to resolve the issues here one way or another. He expressed his frustration with the inability to receive his mail from a mailbox nearer his home rather than Ramstein Road, where the traffic speed is much greater than at his house.

Carl Valenti of 5 Flanders Crossing, reporting that he has resided there for the past 4½ years, spoke in opposition of the proposal presented by Attorney Williams. Additionally, he also expressed frustration with receiving mail at Ramstein Road.

Mr. Jerram spoke in favor of continuing this hearing for two weeks to allow the developer a chance to present at the next meeting some type of schedule that would gain the approval of Attorney Branse.

Attorney Williams noted that Mr. Ferrigno had indicated that there is a drainage easement in favor of the Town of New Hartford from Michael Whiten, recorded January 12, 2009, at Volume 256, Page 1144 of the Land Records.

With regards to the Town's acceptance of the road, Attorney Branse explained that it need not wait until the conclusion of one year following the completion of all the work. He noted that the purpose of the maintenance bond is so that the Town can accept the road, once the development is completed, and let it go through a season to review whether there are cracks or other problems. Attorney Branse further explained that the Commission cannot legally accept the road and that only the full town can do so through a town meeting.

Attorney Branse questioned Attorney Williams whether on the afternoon of this meeting, the last remaining undeveloped lot, Lot #3, was conveyed from Sunshine Construction Ramstein, LLC to Ramstein Construction. Attorney Williams confirmed. Attorney Branse questioned whether both entities are controlled by Mr. Ferrigno. Attorney Williams confirmed. Attorney Branse opined that this conveyance is not one that that defeats this Commission's authority to void the lot, noting that he believes it remains under the ownership and control of the sub-divider. Attorney Branse noted that he would urge that Mr. Ferrigno share that information with his lending institution and that he does not believe that this conveyance should have occurred. Attorney Williams opted not to debate this point unless there was a request to do so.

Attorney Branse explained that the bond can be adjusted, notably the Commission can indeed agree to a combination of a bond reduction based on value work being completed. It was suggested that at the very least, Mr. Ferrigno clean out the catch basins at once.

Mr. Stoutenberg polled commissioners.

MOTION: Mr. Post, Mr. Moore second, to table action for two weeks; unanimously approved.

3. PENDING APPLICATIONS:

A. Discuss Flanders Crossing Subdivision Calling of the Bond and Voiding of the Subdivision.

It was noted that this discussion will resume in two weeks.

B. Discuss Act Concerning Temporary Health Care Structures.

The consensus of the Commission was to opt out of this due to the vague language of the legislation but act relatively quickly to provide for this type of use within this Commission's own Zoning Regulations.

MOTION: Mr. Stoutenberg, Mr. Moore second, to adopt the following Resolution:

WHEREAS, Public Act 17-155 allows municipalities to "opt out" of the requirements of that Act; and

WHEREAS, the Commission believes that it is appropriate for Connecticut municipalities to provide for caregivers for persons requiring such assistance due to age, disability, or illness; and

WHEREAS, the Town of New Hartford is too rural, and lacks sufficient volunteers or staff, to comply with many of the procedural requirements of the Act but feels that a locally adopted regulation can resolve those problems while still addressing the legitimate need which spawned the Act; and

WHEREAS, the Commission is prepared to work on such a local regulation and hopes to move forward with some alternative method of addressing the needs for caregivers;

NOW, THEREFORE, BE IT RESOLVED, that the New Hartford Planning and Zoning Commission does hereby affirmatively opt out of the provisions of Public Act 17-155; and hereby recommends that the New Hartford Board of Selectmen adopt an opt-out resolution similar to this one adopted by the Commission.

The motion was unanimously approved.

4. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

Recommendations on Draft of Northwest Connecticut Regional Plan of Conservation and Development 2017 – 2027.

The Commission reviewed the Draft Regional Plan of Conservation and Development Review Form. The form contained four statements whereby each town was requested to provide a true or false, or yes or no. The consensus was to respond "true" to the form's first statement, "*The Draft Regional Plan of Conservation & Development contains goals, policies, and actions which the Commission believes are largely consistent with our Town Plan of Conservation and Development.*" They agreed to answer "yes" to the second statement, "*Would your Commission be willing to endorse the Regional POCD in its current state?*" but to qualify their "yes" by suggesting that more emphasis is needed on economic development. They also thought it should be noted that the COG needs to correct the map, specifically the area of town included as part of the Balanced Growth Map. It was noted that one of their maps do not even show the Bristol watershed and erroneously has the railroad extending to Winchester although it stops in Torrington. In response to the form's third inquiry regarding other critical regional goals, policies, or actions, the consensus thought that there should be more emphasis on commercial development and jobs. There was no suggestion made for the fourth question of the form.

5. APPROVAL OF MINUTES: September 13, 2017.

The September 13, 2017 Minutes should be amended to reflect that Mr. McLoughlin was absent and was not seated for Mr. Steadman. The Minutes were accepted as amended.

6. ZONING ENFORCEMENT OFFICER'S REPORT:

Ms. Mulcahy provided an update on the Mobil station on Main Street.

7. CORRESPONDENCE:

No correspondence was discussed.

MOTION: Mr. Steadman, Mr. Krimmel second, **to adjourn at 8:36PM; unanimously approved.**

Respectfully submitted,

**Pamela A. Colombie
Recording Secretary**