

**PLANNING AND ZONING COMMISSION  
SPECIAL MEETING - MINUTES  
MONDAY, August 11, 2014 – 3:00PM  
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

**PRESENT:** Chairman James Steadman, Ted Stoutenberg, Gil Pratt; Alternate Robert Moore; Land Use staff Steven Sadlowski.

**ALSO PRESENT:** Planning and Zoning Commission Attorney Mark Branse, First Selectman Dan Jerram, Attorney Dave Markowitz, Mr. Karl Nielsen, Mr. Dave Hurley, New Hartford Town Clerk Donna LaPlante.

**ABSENT:** David Krimmel, Dan LaPlante; Alternates Peter Ventre, Martin Post.

Chairman Jim Steadman called the meeting to order at 3:00PM. All regular members present were seated for the afternoon. The proceedings were recorded digitally and copies are available in the Land Use Office.

**1. Informal Discussion with Mr. Hurley, Mr. Markowitz (his attorney) and Mr. Nilsen (his agent) about the mill at 37 Greenwood Road (AKA the New Hartford Industrial Park, Inc.).**

Mr. Steadman invited Attorney Mark Branse to advise commissioners on process of the meeting. Attorney Branse inquired as to whether the matter has been set for public hearing now. Mr. Steadman replied that it is not. Attorney Branse characterized the Special Meeting as a pre-application and advised commissioners to treat the meeting like a workshop and to refrain from pre-determination of an ultimate regulation. He advised that commissioners have the goal of identifying what the problem is that the property owner would like to solve, and what are some ways of solving it.

Mr. Ted Stoutenberg asked Mr. Steve Sadlowski whether the current plan was to extend the New Hartford Center District to include the subject property. Mr. Sadlowski confirmed this and explained that in order to create a whole new zone for the property, it would likely not get done within the time that the owner is seeking. The problem with merely extending the property to be included as part of the New Hartford Center Zone is that they would not be able to have new industrial uses, which is part of what they would like to do in there. His suggestion was to make it into this type of zone and make some text changes in the New Hartford Center Zone. He reminded the commissioners that the haste for this property is due to the loss of a major tenant, Ovation Guitars. He provided commissioners with copies of pictures of the building. Attorney Branse advised commissioners that it is allowable to deem non-conforming anything that is there. He further advised that they could also draft regulations that allow those uses to be relocated within the structure. Another approach rather than even deeming non-conforming is to deem it permitted. The only question then, according to Attorney Branse, is in terms of expansion. He reminded the commission that the property is currently zoned industrial. Mr. Sadlowski reported that he had recently drafted some language allowing for within the existing building, they would be able to continue the uses that the building has historically done and relocate within the building. To add onto the building would be subject to review in the language drafted by Mr. Sadlowski.

Mr. Stoutenberg asked if there was any reason why they can't extend these uses to the New Hartford Center Zone. Attorney Branse responded that legally there was not but the only question is whether the commission thinks they're compatible. Mr. Stoutenberg stated that while the chance might be slim in the rest of the New Hartford Center Zone, he could see no reason why to exclude it. Mr. Dan Jerram, First Selectman, then commented that his thinking was what this means to the larger, broader picture of the entirety of that side of the river and what it means to the town.

Attorney Markowitz stated that he had no problem with the language as proposed by Mr. Sadlowski. He indicated that what he would like to avoid is the special exception and/or site plan requirements. He commented that for example, with approaching it this way if a restaurant were to be part of the building, it would necessitate a special exception and a public hearing. Special exceptions slow the process down according to Attorney Markowitz. He indicated he would have no problem with a zoning permit.

Attorney Branse questioned what the objection is with a special exception. He reported that a public hearing can occur in two weeks. Attorney Branse pointed out that the current regulations have certain requirements for lighting of a parking lot. He continued that if someone was proposing a restaurant on this side of the river, even in an existing building, it would be reviewed to see that the lighting was dark sky compliant even if it was in an existing parking lot. On the other side of the parking lot, it would just be signed off by Mr. Sadlowski and no further current lighting changes would be needed. Attorney Markowitz asked to discuss the lighting. He reported that there is lighting and that there has been for 30 years and that they would not be suggesting any changes to the lighting. Attorney Branse's response was that the question is, "Should there be changes to the lighting?" Both Attorney Markowitz and Mr. Hurley responded no, because the typical box light fixtures contained in site plans today, then it would be necessary to put poles in the lot. He reported that the building has had people working shifts during the winter time and that the building has been owned, occupied and lit for a long time. Attorney Branse responded that the traffic flow for travelers familiar with the site is not the same as the general public as would be the case for a restaurant.

Attorney Branse then advised the commissioners that the argument regarding lighting that the two attorneys were engaging in was a good thing for commissioners to see. He continued that the commission may indeed agree that the lighting in its present form is adequate for a restaurant. However, what Attorney Markowitz on behalf of his client is asking for, would prevent them from ever hearing it at all. In that case, Mr. Sadlowski would be forced to issue that permit exactly as the lighting is whether the commission thinks it should be updated or not. Mr. Jerram agreed that Attorney Branse was just trying to point out the difference in process that would result. Mr. Steadman clarified that if the commission thought there should be more or different landscaping in there, they would have no authority. Attorney Branse confirmed. Mr. Steadman asked whether a restaurant wanted to go in anywhere else in the New Hartford Center Zone, they would have to come in for a special exception. Attorney Branse confirmed, even if it was in an existing building. Mr. Steadman stated that he did not see the difference and why the subject property should be treated differently. He stated that he believes the special exception provision allows the commission to look at the site and things like the lighting and to get input from the public.

Attorney Markowitz asked whether Attorney Branse has any objection with six or seven applications for special exception to be heard in one night. Attorney Branse said there's no reason why an applicant can't propose alternative applications for the same space so long as the parking is there for the various uses and the commission feels that any one of them would be compatible in the space, it would be okay. Mr. Steadman confirmed that both a zone change and a special exception application could occur at the same time. Attorney Branse indicated that the commission would set an effective date for the change in zone and thereafter would be the effective date for the special exception but they could be voted and heard on in the same night. This could also be done in one public hearing. Mr. Jerram said that this was helpful because the financial pressures on a 125,000 square foot building are different than a building with 2,000 square feet.

Mr. Stoutenberg agreed that the circulation of getting into the building is different than an industrial occupancy and a restaurant. He agrees with Mr. Steadman that they would need to see a plan.

Attorney Branse asked what the timeframe was. Attorney Markowitz indicated that his client has a restaurant tenant who is interested in leasing 5,000 square feet.

Mr. Sadlowski asked whether they want industrial uses anywhere other than that building. Mr. Stoutenberg indicated no and Mr. Sadlowski suggested that maybe they change it to the property, not the building. Mr. Stoutenberg suggested that the town needs industrial because the town needs employees that will have families here in New Hartford. With no opportunities here for employees, he asked, why should there be any families here. He reported that New Hartford has lost at least 1,000 jobs in the last forty years. The more industrial opportunity there is, the more likely a head of family is to decide to live in this town, according to Mr. Stoutenberg. He does not want to preclude the opportunity for those people to want to live in New Hartford by not encouraging industry.

Mr. Jerram asked about whether an application of a zone change on this property allows for a mixed use. Mr. Steadman followed with a question as to how this affects the housing aspect. Attorney Branse confirmed that it could indeed be allowed to have condominiums by extending the New Hartford Center.

Mr. Sadlowski pointed out that the question before the commission is whether they want to allow industrial use in an existing building in the New Hartford Center District or whether they want to allow industrial in new buildings in the New Hartford Center District. Mr. Stoutenberg pointed out that the opportunities are extremely limited to put in a factory in the district. Attorney Branse presented the option of language in district zone of "new construction or additions: industrial use, special exception". In order to expand or add on to the building, it would be a special exception.

Ms. Donna LaPlante, New Hartford Town Clerk, addressed the commission supporting what Mr. Sadlowski is proposing because it is narrow in scope. She cautioned about attempting to allow other new industrial uses within the current New Hartford Center.

The commissioners along with Mr. Sadlowski and Attorney Branse proposed different language to amend the regulation to change the industrial zone status of the Hurley building to be part of the New Hartford Center Zone but to allow for continued industrial use within the existing building. Mr. Karl Nielson inquired of the group what consideration could be made if Hurley Manufacturing was to move its factory to a back building. Questions were asked whether the building is part of and connected to the larger building or whether it is indeed a separate building located on the property. It was determined that while you might not be able to walk through the length of the building to get to the area Mr. Nielson is referring to for lack of a direct door in the boiler room, it is still connected as part of the overall building and therefore would be considered part of the one building.

Attorney Branse then read proposed legal language for an Adaptive Reuse Provision as follows: In any historic mill building, or buildings, located in New Hartford Center Zone where the building: 1.) Just prior to these regulations, 63987; 2.) is at least 100,000 square feet in size on a single lot; 3) has historically had historical uses within, the following uses may continue in order to ensure the continued economic viability of the structure and to provide flexibility with the varied spaces of the large building or such uses may relocate the same square footage of such uses within such building by zoning permit or may expand the square footage or establish new such uses by site plan review.

Attorney Branse suggested that to proceed, the commission should advertise the change of zone, the map change, this text amendment and if a complete application is received with special exception(s). Attorney Markowitz assured that he would be able to put his part together by the second meeting next month, September 24, 2014.

Mr. Sadlowski inquired that in the event there's a special exception application for a restaurant on the subject property and it is found that the lighting there is adequate but "is not full cutoff", if that is something that the commission would want changed. Mr. Stoutenberg replied that he thought the commission would have to see where the entrance to the restaurant would be and how it is laid out with the parking. Attorney Branse explained that one of the reasons for a special exception is that a commission tries to seek some upgrades to current standards but at the same time if someone is changing only 5,000 square feet of a 100,000 square foot building, the commission typically wouldn't require the whole building to be brought up to current standards. It was decided that a lighting plan and landscaping plan is needed just for where the restaurant would be and have those items for the next meeting. Attorney Branse explained that it is a fundamental change in use from a building that is open to its employees that come to it every day to a building where the general public is visiting. What worked for manufacturing use and circulation, a restaurant or retail is different in that it is open to the public. Mr. Sadlowski asked where the proposed restaurant would be located within the building. Attorney Markowitz reported that the restaurant would be in the main building, in the top floor. After Mr. Hurley

identified for the commission on the pictures where the present lights are located, Attorney Branse again noted that the applicant is going to need a site plan. He further noted that the applicant has adequate expertise with the aid of Attorney Markowitz and Mr. Nielson in order to know what it is that the commission is going to reasonably be looking for.

**MOTION Mr. Stoutenberg, Mr. Pratt Second, to adjourn at 3:58PM; unanimously approved.**

**Respectfully submitted,**

**Pamela A. Colombie  
Recording Secretary**

DRAFT