

**PLANNING AND ZONING COMMISSION
REGULAR MEETING – MINUTES
JANUARY 23, 2013 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

PRESENT: Chairman James Steadman, David Krimmel, Daniel LaPlante, Gil Pratt, Ted Stoutenberg; Alternates Robert Moore and Martin Post; Land Use staff Certified Zoning Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

ABSENT: Alternate Peter Ventre.

Chairman James Steadman called the meeting to order at 7:00PM. All regular members were present and seated for the evening. The proceedings were recorded digitally and copies are available in the Land Use Office.

1. APPROVAL OF MINUTES:

A. January 9, 2013 regular meeting.

The Commission agreed to table this matter to the February 13, 2013 regular meeting.

2. OLD BUSINESS:

A. Continued Discussion Regarding Review Process for 2015 Plan of Conservation and Development.

Mr. Steadman noted that Mr. Krimmel had suggested the formation of a Plan of Conservation and Development (POCD) subcommittee at the last meeting. He stated he thought this was a good idea in order to determine the amount of professional assistance required.

MOTION Mr. Steadman, second Mr. Post, to form a Plan of Conservation and Development Subcommittee and nominate David Krimmel as its chairman; unanimously approved.

Mr. Krimmel stated that he would be happy to act as chairman; Mr. Stoutenberg and Mr. Post also agreed to join this subcommittee. Mr. Krimmel stated that he would want the subcommittee to review the current POCD in order to determine what had been accomplished, what had not but was still pertinent, what new issues might need to be added, and what could be removed even if not accomplished as it was no longer pertinent. He said that they could then determine to what degree professional assistance was necessary.

Ms. Malanca offered to serve as staff to this subcommittee if the Commission so desired; Mr. Steadman and several members of the Commission accepted this offer. Mr. Krimmel questioned whether agendas and minutes would need to be filed; Ms. Malanca replied affirmatively and stated that she could take care of these issues. Members of the new subcommittee then agreed to hold their first meeting on Wednesday, January 30, 2013 at 4:30PM in the Town Hall.

B. Election of Officers.

Mr. Steadman first opened the floor to nominations for the position of Chairman of the Planning and Zoning Commission.

MOTION Mr. Stoutenberg, second Mr. Pratt, to nominate James Steadman for the position of Chairman of the Planning and Zoning Commission.

Hearing no other nominations:

MOTION Mr. Krimmel, second Mr. Stoutenberg, to close nominations for the position of Chairman of the Planning and Zoning Commission; unanimously approved.

The Commission then voted unanimously for James Steadman to serve as Chairman of the Planning and Zoning Commission for 2013.

Mr. Steadman then opened the floor to nominations for the position of Vice-Chairman of the Planning and Zoning Commission.

MOTION Mr. Pratt, second Mr. Krimmel to nominate Ted Stoutenberg for the position of Vice-Chairman of the Planning and Zoning Commission.

Hearing no other nominations:

MOTION Mr. Steadman, second Mr. Post, to close nominations for the position of Vice-Chairman of the Planning and Zoning Commission; unanimously approved.

The Commission then voted unanimously for Ted Stoutenberg to serve as Vice-Chairman of the Planning and Zoning Commission for 2013.

3. NEW BUSINESS:

A. Placement of all Metropolitan District Commission and Regional Refuse Disposal District Properties in the Public Service/Utility District as per Section 5.6 of the Zoning Regulations.

Mr. Stoutenberg explained that he had asked Ms. Malanca to add this item to the agenda because the Commission had created this new zone as a part of their rewrite of the Zoning Regulations; however, they had never yet actually updated the Zoning Map and designated properties that belonged in this zone. Ms. Malanca explained for the benefit of new commission members why the Commission had decided to create this new zone.

Ms. Malanca explained that right now, most of these properties were zoned residential; however, much of what facilities like the RRDD #1 wanted to be able to do on their properties was not permitted in a residential zone. Because of this, Jim Hart from RRDD #1 had contacted Ms. Malanca during the regulation rewrite process to ask if something could be done to modify the zone for RRDD #1. She stated that the Public Service/Utility District (PS/UD) was created at the suggestion of the Commission's attorney, Mark Branse, in order to address Mr. Hart's concerns. Public service and utility companies in this new zone would be able to use their properties to perform whatever was explicitly stated as a part of their charter by special exception permit. Ms. Malanca stressed that this would still allow the Commission to retain authority and oversight of how these properties were to be used. If the public service and utility companies wished to use their properties for a purpose not listed in their charters, or if they sold the property to another owner who wished to change the use of the property, they would need to apply for a zone change.

Mr. Stoutenberg noted that Mr. Branse had also mentioned that in other towns in the State where the MDC owned property ostensibly for the purpose of protecting water resources, the MDC had later tried to obtain approval for residential development of this property. He explained that since there was a great deal of MDC land in New Hartford and most of it was zoned residential, it was conceivable that the MDC would currently be able to develop a large area of New Hartford. Mr. Post stated that this was not necessarily a bad thing, and he noted that such a plan would still be subject to subdivision approval. Mr. Stoutenberg explained that under Connecticut General Statutes pertaining to subdivision approval, the Commission was required to approve the application presented provided it met all requirements in the Subdivision Regulations; the Commission would have no authority to determine whether the area where development was proposed was in fact in the best interests of New Hartford. Ms. Malanca explained that development of this land was still possible even if they were designated as PS/UD; the owner of the property would just first need to obtain a zone change from PS/UD to whatever zone permitted their proposed activity. She said that during this time the Commission would be able to review the proposal and determine whether they believed the location was suitable for development. Mr. Post expressed the belief that this was too restrictive against development. He also expressed concern that allowing companies to do whatever was described in their charters was too vague. Mr. Post suggested creating language for a Rural Recreation Zone as that would better suit MDC property.

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Mr. Moore questioned whether the RRDD #1 property could be used for light industrial. Ms. Malanca explained that part of the RRDD #1 property was located in Barkhamsted and part was in New Hartford. She stated that the part in Barkhamsted was zoned business and light industrial because they had easy access off of Route 44. Ms. Malanca explained that the New Hartford portion was zoned residential (R-2) and could be accessed via Johnnycake Road. She said that Jim Hart had told her no industrial development was planned on the New Hartford portion of the property; he had expressed approval of the proposed PS/UD designation for this area of their property. She explained that the RRDD #1 property was under a land use restriction by the Department of Energy and Environmental Protection and that residential development was not even permitted on that land.

Mr. Pratt questioned whether MDC had been notified of this proposed designation of their land. Ms. Malanca stated that MDC had been notified several times during the regulation rewrite process and given drafts of the proposed regulations, and she had also contacted them prior to this meeting; however, they had never issued a response. Mr. Krimmel questioned whether changing the zoning of these parcels would adversely affect the tax base for the Town; Mr. Stoutenberg explained that these parcels were currently being assessed as farm land. The Commission agreed that they would want their attorney, Mark Branse, present at the public hearing for this matter; therefore, they agreed to defer scheduling a public hearing until they knew what dates Mr. Branse would be available. Ms. Malanca stated that she would get possible dates from Mr. Branse prior to the February 13th regular meeting.

B. Discussion of Zoning Regulations Pertaining to Generators and Propane Tanks.

Ms. Malanca explained that she had added this item to the agenda because some issues had arisen from the application of the regulations during the permitting process for generators and propane tanks. She explained that per Section 3.4 on page 33 of the Zoning Regulations, emergency generators and above-ground propane tanks must meet all applicable setbacks. Since most of the Town was in R-2, this meant a 100-foot front yard setback, 50-foot rear yard setback, and 20-foot side yard setbacks. Ms. Malanca explained that in the overwhelming majority of cases, this was not a problem; however, it was becoming clear that this was a difficult requirement for nonconforming houses to meet. As a result of these regulations, nonconforming houses could conceivably be required to build their propane tanks and generators very far behind their houses. She questioned whether this was the true intention of the Commission at the time they adopted these regulations, and she asked whether the Commission might wish to amend the regulations as pertained to nonconforming houses.

Mr. Pratt questioned why applicants encountering this issue did not simply apply to the Zoning Board of Appeals for a variance. Ms. Malanca explained that application for a variance required a \$410 fee, a full A-2 survey of the property, and demonstration of a hardship that the property owner was not able to make reasonable use of the property. Mr. Stoutenberg noted that there were fire code regulations for propane tank installation. Ms. Malanca explained that fire code required propane tanks and generators to be 20 feet from all property lines. She suggested that perhaps the Commission might wish to allow property owners to request a location waiver by special exception; this would allow the Commission oversight, but the requirements would not be as onerous as those required for a variance. After a brief discussion, the Commission agreed with this suggestion, but only for nonconforming lots. Ms. Malanca said that she would talk with Martin Connor, the Town's planning consultant, to draft the necessary language for this regulation.

4. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. MDC Option to Provide Water to UCONN.

Mr. Steadman noted that many towns in the area had written letters of concern about this proposal and asked Ms. Malanca whether the Town had taken a position on this matter. Mr. Moore stated that he had attended the public comment session and there were people there from many different towns, including those that represented Economic Development Commissions and Planning and Zoning Commissions. He stated that they all spoke against this proposal.

Ms. Malanca explained that First Selectman Dan Jerram had also attended the public comment session held at UCONN. She said that his stated position was that UCONN and MDC had provided inadequate information thus far regarding the potential impact on area towns, and that more study needed to be done so that the towns could better determine how this may potentially affect them. She stated she had also spoken with Eric Knapp, Commission attorney Mark Branse's colleague, and that he had expressed an opinion similar to that of Mr. Jerram. She noted that MDC was producing and using less water than in previous years due to efficiencies in their system and less waste on the part of existing users, and that they therefore were attempting to find new customers. However, she concurred that this matter needed more study so as to ensure no adverse impact on area towns.

B. School Consolidation Subcommittee Update – Ted Stoutenberg.

Mr. Stoutenberg updated the Commission on topics discussed at the School Consolidation Subcommittee meeting. He explained that they currently had no projections of future student enrollment in New Hartford, but this was currently being addressed. Mr. Stoutenberg said that there were currently 46 available classrooms between all the elementary schools; however, only 36 were being used. He said that they had obtained birth information from the Town Clerk, and the number of children born to Town residents had decreased substantially over the past few years.

C. Stedman Road Closure.

Mr. LaPlante questioned whether homes could be constructed on a property located on a 2000-foot long road that the Town had closed, given that there were already at least 20 houses along the road. Ms. Malanca questioned whether this was an existing building lot, and Mr. LaPlante stated he asked the question because he owned farmland on Stedman Road, but the Town had actually constructed gates closing the road. Ms. Malanca explained that the regulations Mr. LaPlante was referencing pertained to newly constructed dead-end roads, not existing roads. Members of the Commission expressed concern that repairs to Stedman Road were being inordinately delayed because the Board of Selectmen wanted to wait to perform more costly and longer-lasting repairs. The Commission questioned whether it would be better for residents of the road for the Town to make temporary repairs now even if they did not last as long. Ms. Malanca stated that she would look into this issue for the Commission.

MOTION Mr. Stoutenberg, second Mr. Pratt, to adjourn at 8:18PM; unanimously approved.

**Respectfully submitted,
Stacey M. Sefcik**