

**PLANNING AND ZONING COMMISSION
REGULAR MEETING –MINUTES
APRIL 10, 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, Martin Post, and Peter Ventre; Land Use staff Certified Zoning Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

ABSENT: None.

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. PUBLIC HEARINGS:

A. Amendments to Sections 3.4 and 4.4 of the Town of New Hartford Zoning Regulations Regarding Accessory Structures (Above-ground Propane Tanks, Emergency Generators, Exterior HVAC & Pool Equipment) Serving Pre-Existing, Non-Conforming Structures.

The legal notice for this public hearing was read into the record. Ms. Malanca explained that, according to Section 3.4 and 4.4 of the Zoning Regulations, accessory structures such as above-ground propane tanks, generators, exterior HVAC and pool equipment all were required to meet setback requirements for the zone in which the property was located. Prior to the Building Official signing off on HVAC and electrical permits for installation of accessory structures such as generators, the Zoning Enforcement Official's approval was required to ensure all setback requirements were met. Ms. Malanca stated that in most cases, this did not present any difficulties for homeowners; however, problems had arisen for property owners whose houses were pre-existing nonconforming structures. She explained that these residences were very often close to the road within the currently established front yard setback, and requiring homeowners to comply with current setback requirements for propane tanks, generators, etc. meant that their equipment would be very far behind their nonconforming residence. She noted that in the case of propane tanks, requiring them to be installed to meet current setbacks would most likely mean that the tank was far beyond the driveway and the reach of any propane truck making deliveries. Ms. Malanca explained that the only relief open to property owners at this time was to apply for a variance through the Zoning Board of Appeals, which would be costly and would require proof of hardship.

Ms. Malanca explained that the Town's planning consultant, Martin Connor, AICP, had developed the proposed regulations to provide relief for owners of pre-existing nonconforming structures, such that they could apply for a special exception to place these accessory structures within the setback area. This would be less costly, and the applicant would not have to prove hardship; however, the Commission would still be able to review each application on a case-by-case basis. Mr. Pratt questioned what supporting information the applicant would be required to provide, and Ms. Malanca explained that the applicant would be required to submit a site plan; however, the Commission would have the ability to waive the requirement for a full A-2 survey if they so desired. Mr. Pratt questioned how expensive an A-2 survey would be, and Mr. Post stated that it would be approximately \$500-\$1000. Mr. Steadman questioned whether the Building Official would still be involved in the permit process and inspections for these structures, and Ms. Malanca responded affirmatively.

Mr. Steadman then opened the floor to public comment; however, no one present expressed a desire to speak. Hearing no further comments from the Commission or the audience:

MOTION Mr. Stoutenberg, second Mr. Pratt, to close the public hearing in the matter of **Amendments to Sections 3.4 and 4.4 of the Town of New Hartford Zoning Regulations Regarding Accessory Structures (Above-ground Propane Tanks, Emergency Generators, Exterior HVAC & Pool Equipment) Serving Pre-Existing, Non-Conforming Structures**; unanimously approved.

MOTION Mr. Stoutenberg, second Mr. Krimmel, to amend the agenda to discuss item 2A after all applications in item 3; unanimously approved.

3. **NEW APPLICATIONS:**

A. **8-24 Request from the Board of Selectmen for Improvements at Ann Antolini School, New Hartford Elementary School, and Bakerville Consolidated School for School Security Enhancements.**

Ms. Malanca briefly explained the process for 8-24 referrals from the Board of Selectmen, noting that this referral review was part of the Commission's planning responsibilities; any improvements to or purchases or sales of Town-owned land, or leasing of land to the Town required a referral to the Planning and Zoning Commission. All such activities by the Town would then be considered and voted on at a Town Meeting. The Commission was to determine whether the application was consistent with the Plan of Conservation and Development, and the Commission's report on the referral would become part of the record at the Town Meeting.

First Selectman Dan Jerram addressed the Commission to explain that the security improvements to all three elementary schools were developed in response to the tragedy at Sandy Hook Elementary School in Newtown. Mr. Jerram said that a School Facility Study Committee had been created, and the improvements now before the Commission arose from recommendations of that committee. He said that no expansion of facilities was planned; all improvements would take place within the existing footprint of each school. Denton Butler and Roy Litchfield from the School Facility Study Committee then addressed the Commission to briefly review the proposals for each school. Mr. Butler distributed copies of the plans prepared by Kaestle Boos Associates, Inc., dated April 2, 2013, to all Commission members, and he noted that the plans were developed with input from the Town's Fire Chief, Building Inspector, and police officials.

Mr. Litchfield then reviewed the proposal for Ann Antolini School, explaining that the main visitor's entrance and school offices were being moved from the east side of the building to the west side of the building; the public would no longer be permitted access to the school through the same doors used by students at bus drop off and pickup. All exterior doors would be replaced with new keyed entries, and a roll-up delivery door would be replaced with a keyed double door. All new doors would have bullet-resistant frames and glazing. Mr. Stoutenberg noted that the exterior door between the gymnasium and the multipurpose room was often used as an entrance for evening events; Mr. Litchfield stated that the school was in the process of reviewing its policies and procedures for this. He explained that that door would also have keyed access. Cameras were also to be installed at various locations within the building.

Mr. Litchfield next briefly reviewed the proposal for Bakerville Consolidated School. He explained that the same changes to all exterior doors were being made here as at Antolini School. Again, the visitor's entrance would be different from that used by students being dropped off and picked up by buses; visitors would enter a small vestibule by the main office and would have to be buzzed in to gain access to the rest of the school. Cameras would also be installed.

Mr. Litchfield then briefly reviewed the proposal for New Hartford Elementary School. Again, there would be separate visitor and student entrances; all exterior doors would also be replaced as at the two other schools. He explained that the current roofed visitor's entrance area would also be enclosed, and a bullet-resistant door and windows would be installed in order to create a vestibule; visitors would have to be buzzed in to gain access to the rest of the school. Cameras would also be installed.

Mr. Post questioned the cost of the project. Mr. Litchfield explained that it had not yet been put out to bid; however, the consultants they had spoken with estimated it would cost approximately \$565,000. He said that the bulk of the cost was for Antolini School, as the entire main office was being moved to another location which required masonry work and installation of a new bathroom facility for the nurse's office. He explained that bullet-resistance doors and windows were significantly more expensive than regular doors and windows. Mr. Litchfield informed the Commission that Antolini School was going to be due for replacement doors and windows soon in any case.

Mr. Jerram explained that the School Board had been requesting several improvements to Antolini School since 2009, including repairs to the windows and the roof; the Town had just begun considering some portion of the needed repairs when the tragedy occurred in Newtown. In light of the events in Newtown, the Town decided to move forward with these security improvements at all schools first; however, plans would eventually be coming before the Commission regarding roof and window replacement at Antolini School. Mr. Steadman asked whether the Town was still considering closing Bakerville Consolidated due

to decreased enrollment. Mr. Jerram responded affirmatively; however, he noted that it could not be closed for at least another year due to the terms of grant funding received to pay for the school's construction. He explained that, even if the school was closed, the Town would still likely retain ownership of the property. Mr. Jerram said that there would be a public information meeting on these proposed improvements on Thursday night, April 11th, at 7PM at Ann Antolini School.

MOTION Mr. Stoutenberg, second Mr. Steadman, to issue a favorable report to the Board of Selectmen, pursuant to Section 8-24 of the Connecticut General Statutes regarding **Improvements at Ann Antolini School, New Hartford Elementary School, and Bakerville Consolidated School for School Security Enhancements**, finding that the proposal is consistent with the Plan of Conservation and Development; unanimously approved.

B. PTO Playground Subcommittee – Ann Antolini School, applicant; Town of New Hartford, owner; 30 Antolini Road: Site Plan Modification to Expand the Playground Area approximately an additional 40 feet.

Ms. Malanca reminded the Commission that they had approved the field expansion at Ann Antolini School at their July 5, 2012 regular meeting, with the school's existing playground. However, the PTO at the school had done fundraising to purchase and upgrade the playground area, and it would require additional area than that depicted on the current site plan. Ms. Malanca explained that, as per Section 8.5G of the Zoning Regulations, the Commission could approve modification of the site plan provided it did not materially alter the terms of the special exception granted. The new playground area would be approximately 30-feet x 10-feet larger. She informed the Commission that approval was required as the modification was enlarging the playground area from that which was shown on the plans; replacement of the existing playground within the same area would not have required approval.

Mr. Jerram then addressed the Commission to explain that the school's PTO had been fundraising for three years, and they had managed to raise an impressive \$65,000 for this new playground. He said that they had scheduled a "Community Build" for the weekend of May 17th and 18th to install the new playground. Mr. Steadman questioned whether any excavation would be required, and Mr. Jerram responded negatively. He said that the area was mostly level; however, they would need to bring in safety fill material to place around the playground structures. He also explained that the existing swing set would remain in place.

MOTION Mr. Stoutenberg, second Mr. Pratt, to approve the application in the matter of **PTO Playground Subcommittee – Ann Antolini School, applicant; Town of New Hartford, owner; 30 Antolini Road: Site Plan Modification to Expand the Playground Area approximately an additional 40 feet** as per all oral and written testimony; unanimously approved.

C. Town of New Hartford Parks & Recreation, applicant; New Hartford Industrial Park, owner; 37 Greenwoods Road – Site Plan Application for Temporary Use Permit as per Section 7.3B of the Zoning Regulations for Road Race.

Ms. Malanca informed the Commission that this matter should be tabled, as the organizers were considering changing the date. Mr. Jerram explained to the Commission that the organizers had just found out that a charity bike race was being held at Ski Sundown the same day as that originally planned for this road race. Because of this, they were considering different dates for this event.

MOTION Mr. Stoutenberg, second Mr. Pratt, to table the matter of **Town of New Hartford Parks & Recreation, applicant; New Hartford Industrial Park, owner; 37 Greenwoods Road – Site Plan Application for Temporary Use Permit as per Section 7.3B of the Zoning Regulations for Road Race** to the April 24, 2013 regular meeting; unanimously approved.

D. Peter Herbst, Esq. for Dr. Richard Escherick – Text Amendment to Sections 2.2, 4.2, and 6.2 of the Zoning Regulations Regarding Veterinary Clinics and Veterinary Hospitals.

Mr. Krimmel questioned whether the Commission should have their attorney, Mark Branse, review this proposal. Ms. Malanca explained that Mr. Herbst's proposal was based on similar regulations that Mr. Branse had developed for another Town he represents. She noted that Mr. Branse and Mr. Herbst had spoken together already regarding this proposal; however, she agreed that it would be advisable to have Mr. Branse review the proposal now submitted.

MOTION Mr. Krimmel, second Mr. Stoutenberg, to accept the application in the matter of **Peter Herbst, Esq. for Dr. Richard Escherick – Text Amendment to Sections 2.2, 4.2, and 6.2 of the Zoning Regulations Regarding Veterinary Clinics and Veterinary Hospitals** and schedule a public hearing for the June 12, 2013 regular meeting with the condition that the Zoning Enforcement Officer is to arrange review of and report on this application by the Commission's legal counsel; unanimously approved.

E. 8-24 Request from the Board of Selectmen to Renew Lease with New Hartford Fire District to the Town of New Hartford for Property Known as Callahan Park located at 5 Cottage Street for the Use of a Public Park.

First Selectman Dan Jerram addressed the Commission regarding this matter. He explained that the property of 5 Cottage Street, known as Callahan Park, was owned by the New Hartford Fire District; however, the Town had been using this property as a park since 1976. While they had originally signed a lease with the New Hartford Fire District, the lease had never been renewed; this created a liability issue for the New Hartford Fire District. Mr. Jerram explained that the new lease would be for 10 years, with an option to renew the lease for another 10 years. The cost of the lease would only be \$1.00. He noted that this proposal would also go before Town Meeting.

MOTION Mr. Krimmel, second Mr. Stoutenberg, to issue a favorable report to the Board of Selectmen, pursuant to Section 8-24 of the Connecticut General Statutes regarding **Renewal of Lease with New Hartford Fire District to the Town of New Hartford for Property Known as Callahan Park located at 5 Cottage Street for the Use of a Public Park**, finding that the proposal is consistent with the Plan of Conservation and Development; unanimously approved.

MOTION Mr. Steadman, second Mr. Stoutenberg, to amend the agenda to add item 3F – Jennifer Lefebre-McGevna, applicant; Brent St. John, owner; 206 Main Street - Request per Section 8.1K of the Zoning Regulations to Waive Special Exception Requirement as per Section 7.1A for Change of Nonconforming Use from general business and personal services to medical office; unanimously approved.

F. Jennifer Lefebre-McGevna, applicant; Brent St. John, owner; 206 Main Street – Request per Section 8.1K of the Zoning Regulations to Waive Special Exception Requirement as per Section 7.1A for Change of Nonconforming Use from general business and personal services to medical office.

Ms. Malanca explained that Ms. Lefebre-McGevna had come to the Land Use office earlier in the day because she wanted to use this location for her child psychology practice. The building had previously been used as the office for Winchester Modular Housing and also Pooch Palace; these were general business and personal services uses. Ms. Malanca explained that the property was located in the R-15 Zone; therefore, any commercial use in this zone would be nonconforming. She explained that changing from one nonconforming use to another would require a special exception as per Section 7.1A of the Zoning Regulations. However, if the Commission so chose, as per Section 8.1K of the Zoning Regulations, they could grant a waiver of the special exception requirement provided the new use does not require greater parking requirements or exterior changes to the building and the new use is similar to or less intense than the previous use and would create no greater impacts to the neighborhood. Ms. Malanca stated that, in her opinion, this application did qualify for a waiver.

Ms. Lefebre-McGevna then addressed the Commission. She explained that she was a child psychologist and planned to see no more than 10-12 families per week at this location. She stated that there would be one-on-one sessions and some family sessions; however, she did not plan to hold any group therapy sessions. Ms. Lefebre-McGevna stated that there were 2 parking spaces dedicated to her building, and there was also shared parking available elsewhere on the property. First Selectman Dan Jerram then addressed the Commission to request that they consider granting the requested waiver to Ms. Lefebre-McGevna so that she could relocate her practice into New Hartford as quickly and smoothly as possible. He stressed the importance of welcoming new business into the Town.

MOTION Mr. Stoutenberg, second Mr. Pratt, to approve the waiver request in the matter of **Jennifer Lefebre-McGevna, applicant; Brent St. John, owner; 206 Main Street – Request per Section 8.1K of the Zoning Regulations to Waive Special Exception Requirement as per Section 7.1A for Change of Nonconforming Use from general business and personal services to medical office**; unanimously approved.

2. **PENDING APPLICATIONS:**

- A. **Amendments to Sections 3.4 and 4.4 of the Town of New Hartford Zoning Regulations Regarding Accessory Structures (Above-ground Propane Tanks, Emergency Generators, Exterior HVAC & Pool Equipment) Serving Pre-Existing, Non-Conforming Structures.**

Ms. Malanca explained that the Town's planning consultant had written the proposed regulation, and the Commission's attorney had reviewed and approved it.

MOTION Mr. Post, second Mr. Krimmel, to adopt **Amendments to Sections 3.4 and 4.4 of the Town of New Hartford Zoning Regulations Regarding Accessory Structures (Above-ground Propane Tanks, Emergency Generators, Exterior HVAC & Pool Equipment) Serving Pre-Existing, Non-Conforming Structures** with an effective date of the day after the date of publication, finding that the amendment is consistent with the Plan of Conservation and Development; unanimously approved.

4. **APPROVAL OF MINUTES:**

- A. **March 27, 2013 regular meeting.**

The Commission agreed to table this matter to the April 24, 2013 regular meeting.

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

Ms. Malanca briefly reviewed her enforcement activities over the previous month. She informed the Commission that several new house construction projects come in to the Land Use office to begin the permitting process. Ms. Malanca noted that there were a total of 2 new houses in Town in 2012; thus far in 2013, there were 8.

6. **CORRESPONDENCE:**

No business was discussed.

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

- A. **Continued Discussion regarding proposed amendments to the Zoning Regulations pertaining to Floor Area Ratio.**

Ms. Malanca distributed copies of and reviewed with the Commission the proposed amendments to the Floor Area Ratio (FAR) regulations, noting that the Commission's attorney, Mark Branse, had offered two alternatives. The first option had the same standards for all lots, both existing and new, regardless of zone location. The second option kept Floor Area Ratio by zone, but added a waiver provision in all zones for nonconforming lots only. Ms. Malanca reminded the Commission that they had wanted Mr. Branse to change the draft amendments such that FAR was determined by lot size, not zone; they had also wanted to create a special exception provision for all proposals that exceeded the FAR for that particular lot size. She explained that Mr. Branse had done this as a part of Option #1; this option allowed increase in FAR by special exception for both nonconforming and conforming lots. However, Mr. Branse then created Option #2 in case the Commission did not wish to offer the special exception alternative to conforming lots. Option #2 kept FAR by zone; however, if a lot was nonconforming then it would be required to adhere to the FAR for the zone which it most closely resembled. Only nonconforming lots would be permitted to use the special exception to increase their FAR. Ms. Malanca explained that Mr. Branse preferred Option #2, but he would be comfortable with whichever option the Commission selected; the Town's planning consultant, Martin Connor, reviewed both proposals and preferred Option #1. She said that the Commission should determine which option they preferred, and then they could schedule a public hearing on the amendment. She recommended scheduling the public hearing for May 8th, the same night as the public hearing on the PS/UD zone change, as Mr. Branse would be there; this would also ensure that those applicants whose projects were affected by the current FAR regulations would have the Commission's answer more quickly and they could proceed with their projects accordingly. Mr. Steadman questioned whether or not it would be possible to have both options scheduled for public hearing, and after that testimony the Commission could determine which method they preferred. Ms. Malanca stated that Mr. Branse advised it would be better to pick one option to send to public hearing; having both on the agenda might be confusing to the public. After a brief discussion, members of the Commission agreed that they preferred Option #1 as that most closely resembled their preferences discussed at the March 27th meeting.

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Ms. Malanca then explained that the Commission also had to make a determination regarding their desired FAR for lots over 87,120 square feet. She stated that Mr. Branse was not sure if they wanted to keep it to 10% as it was for lots between 15,000 square feet and 87,120 square feet, or if they wanted to decrease the FAR to 5%, given that 10% of a lot greater than 2 acres could potentially be rather sizable. Mr. Krimmel observed that the main problem with FAR was for properties around West Hill Pond; he questioned why the FAR regulation impacted all zones in the town. Mr. Steadman noted that the regulations already limited impervious surface coverage around West Hill Pond. Ms. Malanca stated that she had discussed this issue with Mr. Branse, and it was his recommendation to keep FAR regulations in order to prevent “squarification” whereby owners of small lots around the lake were permitted to use all of their buildable area up to the maximum building height; this resulted in large square buildings that were often not in character with the neighborhood and could obstruct views for adjoining properties. Ms. Malanca explained that there were small lots in other zones, particularly the R15, that could have similar issues with the FAR regulations.

After discussion about the pros and cons of FAR regulations and the different possible percentages, the Commission agreed that they preferred Option #1 with permitted FAR set to 10% for all lots greater than 15,000 square feet, and increases in FAR up to twice the permitted FAR available by special exception.

MOTION Mr. Stoutenberg, second Mr. Pratt, to schedule a public hearing on **Text Amendment to Sections 3.4D, 3.4E, and 7.1C of the Town of New Hartford Zoning Regulations Pertaining to Floor Area Ratio** for the May 8, 2013 regular meeting as per Option #1 with permitted FAR set to 10% for all lots greater than 15,000 square feet, and increases in FAR up to twice the permitted FAR available by special exception; unanimously approved.

Mr. Steadman questioned whether this would allow adequate time for required noticing to the appropriate Councils of Government. Ms. Malanca explained that the three in question had already been notified of a potential public hearing on May 8th on this issue, and they all stated the amount of notice would be acceptable to them.

B. Impact of Public Service/Utility District Zone Change for MDC Property on Rails to Trails Committee’s Efforts to Create Biking/Walking Trail.

Mr. Krimmel explained that the Town and the Economic Development Commission had begun work on creating a walking/biking trail along the Farmington River, and part of the proposed route was on Metropolitan District (MDC) property. He questioned whether a walking/biking trail would be in the MDC charter and thereby allowed under the newly proposed Public Service/Utility District Zone. Ms. Malanca stated that a walking/biking trail would be considered public recreation, which was very likely included in the MDC’s charter. In any case, the Commission could always amend the regulation to include public parks as a permitted use. Mr. Moore stated that he had read the MDC charter, and he was pretty sure that public recreation was included in their stated purpose.

C. Status of Efforts to Create Incentive Housing Zone Regulations.

Mr. Moore asked about the status of the Town’s efforts to obtain State grants to develop Incentive Housing Zone regulations. Ms. Malanca explained that the State’s deadline for applying for the grants kept getting postponed. Mr. Jerram also added that the State had greatly decreased the amount of money available as a part of these grants. He explained that the Town had been busy recently preparing the 2013-2014 budget proposal; however, he would contact the State regarding the status of this grant the next day.

D. Closure of Carpenter Road Bridge.

Mr. Steadman questioned whether road closures, such as the one on Carpenter Road, were supposed to be reviewed by the Planning and Zoning Commission. Ms. Malanca explained that if the Town was planning to abandon a road, it would come before the Commission; however, a temporary emergency closure in the interests of public safety would not be required to do so. Mr. Jerram explained that it was an emergency closure at the recommendation of the Town’s engineering consultant. Mr. Jerram explained that the Town had already been researching possible repairs to this bridge, when it was determined to be structurally unsafe and was then closed. He said that the Town was now researching different ways to rebuild the bridge; however, these alternatives had many potential impacts on abutting

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property owners, the level of the Nepaug River, as well as property owners and Town and State bridges upstream and downstream from Carpenter Road. Mr. Jerram said that this issue would be being discussed at the Board of Selectmen's meeting on Thursday, April 11th. Mr. Steadman asked if the Fire Chief for the area had been informed when the road was closed, and Mr. Jerram stated that the Town had notified the Fire Chief the same day; he said that all residents of Carpenter Road had also been notified. The Commission discussed the impact to fire and ambulance response time, and several members agreed that the alternative route via Dings Road would take essentially the same amount of time and might in fact be quicker.

MOTION Mr. Stoutenberg, second Mr. Pratt, to adjourn at 8:52PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik