

PLANNING AND ZONING COMMISSION
REVISED REGULAR MEETING MINUTES
JUNE 13, 2012 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET

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

ABSENT: Alternates David Jones, Martin Post, and Peter Ventre.

Chairman James Steadman called the meeting to order at 7:05PM. 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:

The Recording Secretary read into the record the legal notice for both scheduled public hearings. Explaining that he was an abutting neighbor to the applicants in agenda item 1A, David Krimmel recused himself from this matter and exited the meeting room.

A. Beverly and Francis Dings, 33 Dings Road – 2-Lot Subdivision. (*Tabled from 5/23/12 to 6/13/12 due to improper noticing*).

Steve Latour of Berkshire Engineering and Surveying addressed the Commission on behalf of the applicants. Mr. Latour submitted proof of mailing to abutting neighbors and briefly reviewed the proposed application. Mr. Latour stated that proposed Lot 1 was 2.2 acres with an existing house; Lot 2 would be 17 acres and was mostly wooded. He stated that they had obtained Farmington Valley Health District approval and submitted a copy of the approval for the record. Mr. Latour submitted 3 copies of revised plans, which Mr. Latour explained had been modify to address comments received from both the Town's planning and engineering consultants. Ms. Malanca distributed a copy of the report dated June 12, 2012 from Lenard Engineering, the Town's engineering consultant, for the Commission to review. Mr. Latour explained that while there were wetlands on the property and on the abutting property to the south, no work was proposed in the wetlands or within 100 feet of the wetlands. Ms. Malanca informed the Commission that the Inland Wetlands Commission had reviewed the application and had issued a favorable report, which was in the file.

Ms. Malanca stated that she had spoken with Mark Worsman, the Town's fire chief, regarding this application. While she had not yet received a written report, she stated that Mr. Worsman had no concerns with the application other than ensuring adequate flat area to turn around at the top of the driveway by the proposed house on Lot 2. Mr. Latour measured the area on the plans and stated that there was an approximately 80-foot wide flat area by the proposed house which should be adequate to turn around any fire trucks. He noted that the soil was sandy at that location, so it would stay dry. Ms. Malanca explained that Mr. Worsman had said the area did not have to be paved. Mr. Stoutenberg questioned whether the driveway had the necessary pulloffs, and Mr. Latour responded affirmatively. Mr. Steadman asked how long the proposed driveway would be, and Mr. Latour explained that it was 550 feet long and met the requirements of the Town's driveway ordinance. He said that it started out 3% grade, went to 15% grade for 100 feet, and the remainder of the driveway was less than 12% grade. Ms. Malanca noted that the area in excess of 12% grade would have to be paved and referenced the report from Lenard Engineering which recommended that all areas above 8% grade be paved. She then confirmed that this recommendation was noted on the revised plans. The Commission briefly discussed whether to require all areas in excess of 8% grade to be paved. Francis Dings then addressed the Commission and explained that he planned to sell Lot 1 and keep Lot 2; however, he did not intend to build on it at this time.

Mr. Steadman opened the floor at this time to public comment; however, no one present in the audience expressed a desire to speak.

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Ms. Malanca noted that the only outstanding issue was the question of open space. She explained that the applicant had requested a waiver of the open space requirement; however, a letter had also been received from the Open Space Preservation Commission (OSPC) requesting open space or a fee in lieu of open space for this application. Mr. Steadman then read into the record a letter dated April 27, 2012 from the OSPC. Mr. Latour explained that for a subdivision creating only one additional lot, it was not economically feasible for the applicant to offer a fee in lieu of open space. He reiterated that the additional lot being created was 17 acres in size; the applicant could have created a 3-lot subdivision and instead chose to create only 1 additional lot. Mr. Stoutenberg noted that if the 17 acre lot was later developed, the Commission could address the open space issue at that time. Ms. Malanca asked whether the applicant would consider granting any easements to the Town in the event that the Commission did not wish to grant a waiver of the open space requirement. Mr. Latour then submitted an additional plan for the record showing a proposed 20-foot easement from the front of the property along the property line to the southeast corner of the property, where there could be an approximately 3 acre conservation restriction. Mr. Stoutenberg asked if the area was entirely wetlands, and Mr. Latour showed the Commission a wetlands map of the site which revealed that the easternmost part of the conservation restriction along the property line was not wetlands. Ms. Malanca clarified that the applicant was requesting a waiver of the open space requirement; however, if the Commission did not chose to grant the waiver, the applicant was then offering this conservation restriction. Mr. Latour concurred.

MOTION Mr. Stoutenberg, second Mr. Pratt, to close the public hearing in the matter of **Beverly and Francis Dings, 33 Dings Road – 2-Lot Subdivision**; unanimously approved.

David Krimmel returned to the meeting room at 7:30PM and was seated for the remainder of the meeting.

B. Craig McCurdy, applicant; Nancy B. Gibson, owner: 2-Lot Resubdivision – 45 Gibson Lane.

Craig McCurdy addressed the Commission regarding this matter. Mr. McCurdy submitted proof of notice to abutting neighbors as well as a letter from Clark Engineering, the firm that created the original resubdivision plans, which certified that there were no alterations to the lot since the original plans were created. Ms. Malanca explained that this exact resubdivision had been approved by the Commission approximately 2 years previously; however, the mylars had not been filed within the statutorily required timeframe. She said that the resubdivision had been voided since the mylars had not been filed; therefore, the applicant was required to reapply. She further explained that, unless a substantial change to the lot or the plans had been identified, the Commission was required to approve the re-application. Ms. Malanca explained that all documentation, including comments from abutting neighbors, that had been part of the file for the original July 14, 2010 approval was being made a part of the file for this re-application. She noted that the regulations had been amended in the intervening time; however, in her opinion the changes made did not substantially impact this application. Ms. Malanca stated that the work proposed in this application did not trigger the stormwater management plan requirement. She reminded the Commission that their approval of the original application was conditioned on the repair of the dry hydrant prior to the issuance of any building permits; Ms. Malanca recommended that exact condition be included in any motion to approve the application.

Hearing no questions from the Commission, Mr. Steadman opened the floor to public comment. Roy Litchfield of 33 Gibson Lane addressed the Commission. Mr. Litchfield expressed concern that the dry hydrant issue had never been resolved, which was a safety concern for the residents of Gibson Lane. He requested that the Town enforce this requirement and ensure that the dry hydrant be installed properly prior to the sale of the property. Mr. Litchfield stated that the condition of approval only said that the dry hydrant had to be resolved prior to obtaining any building permits; however, if the property owner chose not to build, then the dry hydrant would not be repaired.

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Ms. Malanca then explained that the dry hydrant was a requirement of an even earlier subdivision approval and would be enforced regardless of the outcome of this application. She explained that she had started enforcement activity on this matter; however, the property owner then passed away. Ms. Malanca expressly explained to both Mr. McCurdy and Mr. Litchfield that the subdivision approval and the requirement to install the dry hydrant went with the land, not with the property owner; therefore, whoever owned the pond would be required to comply with the requirement to install the dry hydrant. Mr. McCurdy stated that Mrs. Gibson had been working with the fire department on this matter and was willing to do whatever was necessary to resolve it. Ms. Malanca reiterated that installation of the dry hydrant would be Mr. McCurdy's responsibility and expense if the work was not completed prior to his purchase of the property. Mr. McCurdy explained that his contract for the purchase of the property included reimbursement for the cost to him of this work in the event it was not completed by Mrs. Gibson before the sale.

Hearing no further comments or questions from the Commission or the audience:

MOTION Mr. Stoutenberg, second Mr. LaPlante, to close the public hearing in the matter of **Craig McCurdy, applicant; Nancy B. Gibson, owner: 2-Lot Resubdivision – 45 Gibson Lane**; unanimously approved.

2. PENDING APPLICATIONS:

A. **Beverly and Francis Dings, 33 Dings Road – 2-Lot Subdivision.**

The Commission commenced discussions on this application. Mr. Pratt expressed his opinion that the open space requirement should be waived as the applicants were only creating one additional lot of 17 acres and the land had been in the Dings family for several generations. Mr. Stoutenberg concurred and reiterated that if the lot were ever further subdivided, then the Commission could make a decision at that time regarding open space requirements. Mr. LaPlante also agreed, questioning whether the area being offered for conservation was truly of value to the Town. Mr. Steadman asked whether it abutted any other open space, and Mr. Pratt stated that it did not. Mr. Steadman then asked whether waiving the open space requirement would create a precedent as stated in the letter from the Open Space Preservation Commission. Mr. Stoutenberg then read to the Commission Section 6.2 of the Subdivision Regulations which states, in part, that granting a waiver does not create a binding precedent upon the Commission.

MOTION Mr. Stoutenberg, second Mr. LaPlante, to grant the applicant's request to waive the requirements of Section 4.15 of the Subdivision Regulations in the matter of **Beverly and Francis Dings, 33 Dings Road – 2-Lot Subdivision**, noting that this waiver applies to this subdivision application only and not to any future development of this lot; the motion carried 4-0-1 with Mr. Steadman abstaining.

MOTION Mr. Stoutenberg, second Mr. LaPlante, to approve the application in the matter of **Beverly and Francis Dings, 33 Dings Road – 2-Lot Subdivision** as per all oral and written testimony; unanimously approved.

B. **Craig McCurdy, applicant; Nancy B. Gibson, owner: 2-Lot Resubdivision – 45 Gibson Lane.**

The Commission discussed this application, noting that there were no significant changes to the application or to the lot since the July 2010 approval. Members of the Commission asked Ms. Malanca whether she recommended the same conditions as the original approval or whether changes should be made regarding the dry hydrant issue. Ms. Malanca reiterated her intent to enforce the installation of the dry hydrant as a part of the January 2008 subdivision approval, noting that the 5-year time limit for that subdivision approval would be ending within a few months. She therefore recommended using the exact same conditions as were present on the July 2010 approval.

MOTION Mr. Stoutenberg, second Mr. Pratt, to approve the application in the matter of **Craig McCurdy, applicant; Nancy B. Gibson, owner: 2-Lot Resubdivision – 45 Gibson Lane** as per all oral and written testimony with the following conditions:

1. The dry hydrant on Lot 7A must be installed prior to the issuance of a zoning permit on Lot 7A. The installation of the dry hydrant must be done at the developer's expense with the supervision of the South End Fire Department and the Town Engineer.
2. Pulloffs as per the Town of New Hartford driveway ordinance must be provided, even though the driveway may not exceed 300 feet.

The motion was unanimously approved.

C. Proposed Amendments to Sections 6.3.4 and 6.3.5 of the Town of New Hartford Zoning Regulations – Signs in the New Hartford Center District.

MOTION Mr. Stoutenberg, second Mr. Pratt, to table the matter of **Proposed Amendments to Sections 6.3.4 and 6.3.5 of the Town of New Hartford Zoning Regulations – Signs in the New Hartford Center District** to the June 27, 2012 regular meeting; unanimously approved.

3. NEW APPLICATIONS:

A. Thomas Jennison, 35 Turnbull Road – Special Exception for Accessory Apartment as per Article 3, Section 3.6.C.

MOTION Mr. Stoutenberg, second Mr. Pratt, to accept the application in the matter of **Thomas Jennison, 35 Turnbull Road – Special Exception for Accessory Apartment as per Article 3, Section 3.6.C** and to schedule a public hearing for the July 11, 2012 regular meeting; unanimously approved.

MOTION Mr. Krimmel, second Mr. Stoutenberg, to amend the agenda to discuss item 7A first and then return to the agenda as written; unanimously approved.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. 8-24 Referral Request to Review Sale of Town Property to Robert Vaskalis of 325 Main Street and Acceptance of Easements.

Attorney Peter Herbst addressed the Commission on behalf of Robert and Susan Vaskalis. At Mr. Herbst's request, Ms. Malanca read into the record the letter dated April 12, 2012 that she received from Brendan Schain of Branse, Willis, and Knapp, LLC, the Commission's attorney regarding the Commission's duty in conducting an 8-24 referral.

Mr. Herbst explained to the Commission that when Mr. and Mrs. Vaskalis had purchased the property, they were advised that there was an easement through the backyard granted to the Town for water and sewer. However, Mr. and Mrs. Vaskalis later discovered that the Town actually owned that strip of property through the middle, thereby cutting the Vaskalis' property into two separate pieces. Mr. Herbst explained that Mr. and Mrs. Vaskalis wished to purchase the strip owned by the Town with the understanding that the Town would have an easement over that middle strip for water and sewer. He reminded the Commission that Mr. and Mrs. Vaskalis had come before the Commission in February 2011; however, the Commission did not grant a favorable report out of concern that the easement proposed did not allow for a walking/biking trail. Mr. Herbst noted that while the Town's Plan of Conservation and Development did not list this specific area as a possible location for such a trail, members of the Commission had nonetheless wished to retain this right as this property linked other properties favorable for such a trail. Consequently, Mr. Herbst worked with Mr. and Mrs. Vaskalis to create a revised proposal, which was now under review by the Commission.

Mr. Herbst explained that it was now proposed that the Town sell to Mr. and Mrs. Vaskalis the property separating the Vaskalis' two parcels; Mr. and Mrs. Vaskalis would in turn grant sewer, water, and drainage easements through the middle of the backyard to the Town and would also grant a recreation trail easement around the perimeter of the backyard. Mr. Herbst explained that they were now also offering a drainage easement at the recommendation of Martin Connor, AICP, the Town's Planning Consultant. He explained that the Board of Selectmen had already reviewed this proposal and had unanimously voted to forward the matter to the Planning and Zoning Commission for their review. Mr. Herbst explained that the appraisal had been done by Oles and Jerram, Inc. in Torrington, and Mr. and Mrs. Vaskalis had agreed to pay fair market value as determined by the appraisal. He also mentioned that the size of the parcel that Mr. and Mrs. Vaskalis wished to purchase had decreased, and the remaining Town-owned land would be convenient to the road for parking in the event a walking/biking trail was created.

Mr. LaPlante Mr. Stoutenberg questioned why Mr. and Mrs. Vaskalis were granting three separate adjacent easements for the sewer, water, and drainage. Mr. Herbst and Mr. Vaskalis both stated that they had no problem with granting one easement over the whole area, and Mr. Herbst marked the revised area of the easement, approximately 50 feet across, on his plans in red pen and submitted them to the Commission for the record. He stated that he would have a revised plan drafted and submit to the Town.

MOTION Mr. Stoutenberg, second Mr. Pratt, to issue a favorable report to the Board of Selectmen, pursuant to Section 8-24 of the Connecticut General Statutes, regarding the sale of Town property to Robert Vaskalis of 325 Main Street and acceptance of easements, finding that the proposal is consistent with the Plan of Conservation and Development, with the recommendation that the three easement areas be modified to one continuous easement from the eastern boundary of the water line easement to the western boundary of the drainage easement, as reflected on the revised plans submitted by Attorney Peter Herbst at the June 13, 2012 regular meeting of the Planning and Zoning Commission; unanimously approved.

4. APPROVAL OF MINUTES:

- A. May 9, 2012 regular meeting.**
- B. April 25, 2012 regular meeting.**

MOTION Mr. Stoutenberg, second Mr. Krimmel, to approve the minutes of the May 9, 2012 and April 25, 2012 regular meetings as written; unanimously approved.

5. ZONING ENFORCEMENT OFFICER'S REPORT:

Ms. Malanca briefly reviewed her enforcement activities from the previous month. She updated the Commission regarding the status of enforcement activities at 55 Prospect Street.

6. CORRESPONDENCE:

No business was discussed.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

B. Brodie Park South.

Mr. Steadman shared with the Commission that he had been contacted by Jean Cronauer on behalf of a residents' organization entitled "Friends of Brodie Park South" regarding the use of Brodie Park South for New Hartford Youth Football. He explained that Ms. Cronauer gave him an environmental impact study, which had been prepared by Sean Hayden of the Northwest Conservation District. Ms. Malanca stated that the Land Use office had not received this study

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and requested a copy, which Mr. Steadman stated he would give to her. Ms. Malanca informed the Commission that the Friends of Brodie Park South organization had retained an attorney, who had since contacted the Town regarding this issue; the Commission's attorney was in the midst of drafting a response letter. Therefore, it was advisable that any future discussions of this matter be conducted with legal counsel present.

MOTION Mr. Stoutenberg, second Mr. Pratt, to adjourn at 8:28PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik