

**PLANNING AND ZONING COMMISSION  
REGULAR MEETING – MOTIONS  
APRIL 27, 2011 –7:00PM  
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

**PRESENT:** Chairman James Steadman, Dan LaPlante, Gil Pratt, Ted Stoutenberg; Alternate David Krimmel; Land Use staff CZEO Rista Malanca and Recording Secretary Stacey Sefcik.  
**ABSENT:** Ken Heyse; Alternates David Jones and Peter Ventre.

Chairman James Steadman called the meeting to order at 7:05PM. Alternate David Krimmel was seated for Ken Heyse. The entire proceedings were recorded digitally and are available in the Town Hall.

**1. PUBLIC HEARINGS:**

**A. Catherine (Caren) Ross, applicant/owner, 741 Steele Road – Special Exception for a Montessori School, Article V, Section 2A, Paragraph 8.**

Ms. Ross addressed the Commission and submitted proof of notice to abutting neighbors. She explained that she was hoping to use her property as a Montessori school for middle school students. Ms. Ross explained that she would have at most 10 students, all of whom would be arriving via 2 buses – one from Litchfield and one from Farmington. Ms. Ross stated that she would have only 1 employee onsite and that class would be held in 3 rooms on the first floor, with some periodic work performed in her barn. The hours of the school would be from 9AM to 3PM, potentially year-round. Ms. Ross informed the Commission that the Fire Marshal had inspected the house and said that it only needed additional smoke alarms.

Mr. Steadman asked if meals would be served, and Ms. Ross explained that the students would bring bag lunches; however, the Farmington Valley Health District (FVHD) had approved the use of the kitchen for lessons provided the kitchen was not used for commercial purposes. Ms. Malanca then read into the record the letter from the FVHD. Mr. Stoutenberg questioned whether the school was required to be handicap accessible, and Ms. Malanca informed the Commission that the Building Inspector had visited the property and stated it was acceptable. Mr. Steadman inquired about insurance, and Ms. Ross responded that liability insurance coverage was going to be provided through the two schools sending their students to her middle school program. Mr. Krimmel noted that there was another Montessori school in the Town and that there had been no problems at that location. Mr. LaPlante inquired about the length of the school year, and Ms. Ross explained that it could potentially be open year-round as she wanted to run a summer camp program.

Ms. Malanca explained to the Commission that use of the property as a school was a second principal use; she stated that she had had Martin Connor, the Town planning consultant, review the application and he had stated it met the regulations. Mr. Steadman asked Ms. Malanca about fire code requirements, and Ms. Malanca responded that the school would require a new Certificate of Occupancy, which the Fire Marshal was required to sign off on.

Mr. Steadman then opened the floor to public comment. Maria Moore of Town Hill Road addressed the Commission to speak in favor of the proposed school. Hearing no further comments from the public or the Commission:

**MOTION** Mr. Stoutenberg, second Mr. Krimmel, to close the public hearing in the matter of **Catherine (Caren) Ross, applicant/owner, 741 Steele Road – Special Exception for a Montessori School, Article V, Section 2A, Paragraph 8**; unanimously approved.

**2. PENDING APPLICATIONS:**

**A. Catherine (Caren) Ross, applicant/owner, 741 Steele Road – Special Exception for a Montessori School, Article V, Section 2A, Paragraph 8.**

Mr. Pratt stated for the record that he was an abutting neighbor to Ms. Ross and had received notification of this public hearing. Mr. Pratt expressed a desire to vote on the application, stating that he believed he held no prejudice and would be able to vote fairly.

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Both Mr. Krimmel and Mr. Steadman spoke in favor of the application, expressing the belief that this school would be of benefit to the Town.

**MOTION** Mr. Krimmel, second Mr. Stoutenberg, to approve the application in the matter of **Catherine (Caren) Ross, applicant/owner, 741 Steele Road – Special Exception for a Montessori School, Article V, Section 2A, Paragraph 8** with the following conditions:

1. There will be no more than 10 students allowed onsite.
2. Classes will be held on the first floor of the house only with some occasional use of the barn.
3. The school will run year-round from 9AM to 3PM.
4. Any improvements required by the Building Inspector for handicap accessibility must be implemented.
5. No students are allowed on the 2<sup>nd</sup> floor.

The motion was unanimously approved.

**MOTION** Mr. Krimmel, second Mr. Steadman, to amend the agenda to add item 2B; unanimously approved.

**B. Troy and Lori LaMere, 20 Shady Brook Road Ext. “50 Acre Woods” – Approved 5-Lot Resubdivision with a Special Exception for Rear Lot – Question regarding interpretation of fee in lieu of open space regulations.**

Mr. LaMere and his attorney, Perley Grimes, addressed the Commission regarding the offer of a fee in lieu of open space that had been accepted as a part of this application. Mr. Grimes explained that the appraisal of the entire 52.03-acre property, including Mr. LaMere's own home lot, had been done; it was valued at \$415,000. He then explained that the appraiser had also done an appraisal of only the 4 lots to be sold, not including Mr. LaMere's own home lot, which totaled 22 acres and was valued at \$200,000. Mr. Grimes explained that there appeared to be a difference in interpretation regarding which number to use for the fee calculations.

Ms. Malanca then informed the Commission that as she interpreted the regulations, all the land in a subdivision, including the home lot that was not going to be further developed or sold, was to be included in the calculation of the fee in lieu of open space. She explained that she had had the Commission's attorney review the pertinent regulation, and he had concurred with her interpretation. However, she explained that Mr. LaMere had felt that this was not the way the regulations had been interpreted in the past by the prior Land Use Administrator and that previously, the home lot was not included in the fee calculation. She stated that she had done some research and that in 2 other recent subdivisions, the owner's house lot had been excluded; however, one was due to a specific condition as a part of the approval, and the other was done, in Ms. Malanca's opinion, in error.

Mr. Steadman agreed with Ms. Malanca's interpretation, explaining that he had always been under the impression that the original home lot was to be included in the fee calculation. Mr. Krimmel expressed the belief that only the portion of the original lot that was currently being subdivided and developed should be subject to the fee in lieu of open space; if the owner later chose to further subdivide and develop his home lot, then open space or fee in lieu of open space could be collected based on that subdivision at a later time. Mr. Pratt agreed with Mr. Krimmel. Mr. Stoutenberg then read to the Commission the pertinent regulation, noting that the applicant could have requested a waiver of this requirement during the application process but did not. Mr. Stoutenberg expressed the opinion that it was dangerous for the Commission to decide not to do what their own regulations specifically require. Mr. Steadman concurred. Mr. LaPlante also stated that the regulations as they were written should be adhered to.

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Ms. Malanca read to the Commission portions of a letter dated April 25, 2011, from the Commission's attorney Matthew Willis to the applicant's attorney as well as a letter dated April 27, 2011 from Robert Bartos, the appraiser who performed the work on this subdivision.

Mr. Grimes then addressed the Commission regarding his position on this matter. He stated that Karl Nilsen, the former Land Use Administrator, had stated that the fee in lieu of open space calculations for the Sedgwick subdivision, the Stag Mountain subdivision, and several subdivisions on Southeast Road had been handled the way Mr. LaMere was requesting. Mr. LaMere then asked for the Commission to provide him with an example where the fee calculation included the home lot; if they could not provide an example to him, then it was not fair to now begin requiring this interpretation to be used by him.

The Commission then asked for Ms. Malanca to look into this matter further. The Commission agreed to continue this matter to the May 11, 2011 regular meeting in order to discuss this issue with the Commission's attorney.

Mr. Grimes offered to put the funds in question into an escrow account until this issue was resolved. Ms. Malanca stated that that appeared to be acceptable but should be further discussed with the Commission's attorney.

### **3. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

#### **A. Discussion of Zoning Regulations with Attorney Mark Branse.**

Ms. Malanca explained that Mr. Branse had to reschedule due to a conflict and would be coming to the May 11, 2011 regular meeting. She then explained that she had received a letter from Nelson Skip Sly from the West Hill Pond Association requesting that the Commission put into their new regulations a requirement for all R4-zone projects to provide a stormwater management plan. She also updated the Commission regarding the work she and Mr. Branse had been doing with the draft regulations, stating that they were nearly finished and would soon have the most current draft done for the Commission to review.

The Commission then recessed from 8:20PM to 8:25PM.

#### **B. Discussion of Outdoor Wood Burning Furnaces with Attorney Mark Branse.**

Ms. Malanca then distributed to the Commission members an article submitted by Town resident Linda Martin entitled "Editorial: Everyone has a role in the planet's fate" which had appeared in the Register Citizen on Saturday, April 23, 2011. The Commission briefly discussed possible ways to regulate wood burning furnaces as well as possibly banning them entirely until the state provided better regulations. Ms. Malanca reminded the Commission that their 6-month moratorium would end at the end of June and noted that, if they wanted to continue the moratorium, the necessary public hearing would have to be scheduled and noticed very shortly. The Commission decided to postpone this until they spoke further with their attorney at the May 11, 2011 regular meeting.

#### **C. Discussion of Zoning Map.**

Ms. Malanca explained to the Commission that some errors with the Zoning map had been identified, particularly in the area of the industrial park, where there was a discrepancy between what Land Use records reflected and what the property owners believed to be their correct zone. She explained that there were three properties that she was aware of that were incorrectly zoned, including the property where the Town had built its salt shed. The Commission agreed to have Ms. Malanca speak with the property owners affected in order to research this issue further. Ms. Malanca also explained that a public hearing would have to be held in order to change the zoning for the Town's salt shed from residential to industrial.

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**D. Proprietary Roads Committee Meeting.**

Mr. Krimmel updated the Commission on the meeting he had attended regarding the proprietor's roads in Town, noting that many were still in use. He explained that everyone at the meeting had agreed to individually review the map by their next meeting in order to identify locations of proprietor's roads that could potentially be of interest to the Town.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to adjourn at 9:10PM; unanimously approved.

**Respectfully submitted,  
Stacey M. Sefcik**