

**PLANNING AND ZONING COMMISSION
REGULAR MEETING – MINUTES
FEBRUARY 9, 2011 –7:00PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

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

Chairman James Steadman called the meeting to order at 7:00PM. All regular members present were seated for the evening. Alternate David Jones was seated for Ken Heyse, and Alternate Peter Ventre was seated for Dan LaPlante until his arrival at 7:15PM. The entire proceedings were recorded on audio tape and are available in the Town Hall.

MOTION Mr. Stoutenberg, second Mr. Pratt, to amend the agenda to address items 3A and 3B first and then return to the agenda as written; unanimously approved.

3. NEW BUSINESS:

A. 8-24 Request – Harrison Road/Capell.

First Selectman Dan Jerram addressed the Commission regarding this matter. Mr. Jerram explained that the Town had been contacted by the Capell's attorney regarding the status of an old abandoned road that crossed the Capell's property as well as 2 other properties. Mr. Jerram explained that a list had been drawn up and approved at a Town Meeting in 1967 regarding Town roads and that any roads not on this list had been deemed abandoned. The road in question was not on the list, and therefore, the Town considered it to be abandoned. However, rather than spend money unnecessarily on legal fees to prove this, the Town had decided to quitclaim the abandoned road to the 3 residents whose property it crossed.

Ms. Malanca further explained that the Town believed that it had already done all that was necessary to abandon this road; however, just in case, the Town now proposed to take this step to make it clear that it was giving up all rights to the road. She explained that the Commission's job was to advise the Board of Selectmen as to whether the Planning and Zoning Commission believed this action to be consistent with the Plan of Conservation and Development. This matter would then be voted on at a Town Meeting.

Mr. Krimmel requested that the parcels in question be more specifically delineated on the maps and expressed concern that this set a precedent regarding the many other abandoned roads in New Hartford. Ms. Malanca explained that the location of the proposed activity was thoroughly identified in a Schedule A to be included with the quitclaim deed. She stated that the Town Attorney had reviewed this proposal and informed the Town that there was no danger of precedent as these issues would be handled on a case-by-case basis.

James Stecke, an attorney with Herbst and Herbst, addressed the Commission on behalf of the Capells to explain that the road in question was originally a proprietor's road. He also concurred with the Town Attorney's position that this did not create a dangerous precedent for the Town.

MOTION Mr. Stoutenberg, second Mr. Jones, to approve the 8-24 request from the Board of Selectmen to quitclaim to Frederick E. Capell, Carolyn Capell, Gail M. Richardson, Michael Desantis, and Kara Desantis all of the Town's rights, title, and interest in and to (i) the abandoned public highway known as Old Dirt Road running along the entire westerly boundary of the above-named grantees' premises; and (ii) all of the land located in the Town of New Hartford which lies westerly of the above-named grantees' premises and easterly of the Torrington/New Hartford town line, as it is consistent with the Plan of Conservation and Development.

IN FAVOR: James Steadman, David Jones, Dan LaPlante, Gil Pratt, and Ted Stoutenberg.
OPPOSED: None.
ABSTENTIONS: None.

The motion was unanimously approved.

B. 8-24 Request – Vaskalis.

First Selectman Dan Jerram addressed the Commission regarding this matter as well. He explained that Mr. Vaskalis had purchased his property believing it to be one full lot due to an error made by his title search service; however, in reality it was 2 contiguous parcels with a Town-owned strip down the middle. Mr. Jerram explained that the strip was unbuildable as sewer and water lines ran through it. Mr. Vaskalis proposed purchasing the strip for its appraised value, and the Town would retain an easement on the strip. Mr. Jerram explained that the appraised value was \$10,000 and the total area of the strip was 0.63 acres. He explained that the Town Attorney, the Commission's attorney, and the Town Planner had reviewed this proposal and stated that everything appeared to be in order.

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Mr. Stoutenberg noted that the parcel in question provided access to Route 44 for a possible Rails To Trails site. Mr. Jerram noted that the parcel in question was located within 10 feet of Mr. Vaskalis' back porch, between his porch and his pool. He further explained that there were other more workable outlets for a Rails To Trails path, as this parcel was steep and approximately 30-feet higher than Route 44. Ms. Malanca asked Mr. Jerram what other outlets were available for a potential Rails To Trails path in this area, and Mr. Jerram stated that an outlet could be created on Town-owned land at the end of Church Street.

James Stecke, of Herbst and Herbst, addressed the Commission on behalf of Mr. Vaskalis to reiterate that Mr. Vaskalis was willing to pay the full appraised value of the property in question. Mr. Jones questioned how this transaction would change Mr. Vaskalis' ability to use the land, given it would be under an easement. Mr. Jerram explained that Mr. Vaskalis would be able to landscape the area at his own risk.

Mr. Krimmel and Mr. LaPlante both noted that the owner previous to Mr. Vaskalis had also proposed this sale to the Town; however, he had been refused. They questioned why the Town had turned down that request and was now in favor of it. Mr. Steadman asked whether it would be possible to include a possible Rails To Trails path in the proposed easement, and Mr. Jerram stated that that would be inconsistent with the decisions thus far of the Board of Selectmen. The Commission then reviewed the Plan of Conservation and Development.

MOTION Mr. Jones, second Mr. Stoutenberg, to approve the 8-24 request from the Board of Selectmen for the sale to Robert J. Vaskalis and Susan E. Vaskalis for a price not less than \$10,000.00 of that certain piece or parcel of land located in the Town of New Hartford, County of Litchfield, and State of Connecticut shown as "PARCEL 3 AREA TO BE DEEDED FROM TOWN OF NEW HARTFORD (VOL. 67/PG. 53) TO ROBERT J. VASKALIS & SUSAN E. VASKALIS 27,831 S.F. +/- 0.63 AC. +/-" on a certain map or plan entitled "Property Survey Prepared for Robert J. Vaskalis & Susan E. Vaskalis 325 Main Street New Hartford, Connecticut Date: 01/07/2011 scale: 1"=20'" prepared by Hrica Associates LLC, Kenneth S. Hrica, P.E., L.S., 82 West Street, P.O. Box 1861, Litchfield, Connecticut 06759, as it is consistent with the Plan of Conservation and Development.

IN FAVOR: None.

OPPOSED: James Steadman, David Jones, Dan LaPlante, Gil Pratt, and Ted Stoutenberg.

ABSTENTIONS: None.

The motion failed.

1. PUBLIC HEARING:

The Recording Secretary read into the record the legal notices for all 3 public hearings on the agenda.

A. **Troy and Lori LaMere, 20 Shady Brook Road Extension, 5-Lot Resubdivision with a Special Exception for a Rear Lot, "50 Acre Woods."**

Perley Grimes of Cramer and Anderson, addressed the Commission on behalf of the applicants. Mr. Grimes submitted proof of notice to abutting neighbors and briefly explained the application. He stated that the applicant proposed to resubdivide 50 acres in order to create 4 additional lots. Mr. Grimes explained that applicant was requesting waivers from regulations pertaining to the length of a private road, requirement for construction of sidewalks, and scale of the location map. He then provided a brief history of the site, noting that an earlier subdivision had been approved in 2008 for 5 lots, which meant that there would now be 9 lots on Shady Brook Extension. Mr. Grimes stated that both the Town planning consultant and engineering consultant had reviewed the application numerous times and provided feedback, which the applicant had used to revise his plans.

Robert Colabella of Laurel Engineering then addressed the Commission on behalf of the applicant to review the plans as well as changes made at the request of the Town's planning and engineering consultants. He explained that Shady Brook Extension was paved for approximately 2200 feet to the entrance to the MDC property, and that the applicant proposed to lengthen this private road to 2932 feet, the new portion of which would remain gravel. Mr. Colabella explained that the applicant could have designed a subdivision on a shorter road; however, the applicant was attempting to avoid disturbance to the wetlands areas on the property. He explained that the applicant had obtained Farmington Valley Health District approval for the lots and noted that the Metropolitan District Commission had reviewed the application as well. Mr. Colabella explained that the proposed resubdivision would use several low-impact development techniques in the design of the road extension and its drainage system, including bioretention areas and raingardens. He then explained the proposed fire hydrant and pulloffs on the new area of the road, noting that the existing road had ample area on either side for trucks to pulloff and turn around.

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Mr. Grimes then informed the Commission that the applicant was offering a conservation easement of 7.93 acres or 15.7% of the total parcel, which incorporated all of the wetlands areas on the site. Mr. Grimes also offered a fee in lieu of open space if the Commission preferred that option. He then pointed out that the applicant had not yet received comment from the Town Fire Chief. Ms. Malanca stated that she had spoken with Chief Shaw, who stated that he felt Lenard Engineering, the Town's engineering consultant, had adequately addressed his concerns.

Mr. Stoutenberg noted that the application documents did not include anything regarding the Town Engineer's recommendation for a hammerhead versus a cul-de-sac. Ms. Malanca stated that this issue had been discussed while they were onsite with the applicant's consultants and that Roger Hurlbut of Lenard Engineering had verbally agreed to it. Mr. Steadman informed the Commission that the First Selectman had asked for the Commission to consider the plowing difficulties of a winter such as the current one when approving any roads. Mr. Colabella stated that, as this was a private road and not a Town road, the Town would not be involved. Mr. LaMere then explained that he performed all plowing of the private road himself and had a tractor available at all times. He stated that he plowed for a living for the City of Torrington and knew how to plow a hammerhead versus a cul-de-sac.

Mr. Steadman opened the floor to public comment, and James Stecke of Herbst and Herbst spoke on behalf of Paula Sikulski Pratt, an abutting property owner. Mr. Stecke cited Section 4.3.11 of the Zoning Regulations which pertained to dead-end streets which detailed the conditions for granting a waiver to the 2000-foot limit. Mr. Stecke asserted that granting this waiver would set a major precedent and raised safety concerns as there would be only 1 way in and 1 way out.

The Recording Secretary then read into the record an email received by Rista Malanca from Karann Schaller of 19 Shady Brook Road. Ms. Schaller stated that she was not necessarily opposed to the subdivision provided the wetlands were protected and the homeowner's association was properly in place.

Mr. Grimes then responded to these comments, noting that a homeowner's association was in effect and had been filed with the State. Ms. Malanca then asked whether the applicant planned a small or a large homeowner's association. Mr. Grimes stated that, as there would be less than 12 homes, the applicant considered it to be a small homeowner's association. However, he expressed willingness to file as a large homeowner's association if the Commission preferred. He also expressed willingness to have the Town's engineer review cost estimates for the maintenance of the private road in order to ensure the proposed amount to be collected from all homeowners was adequate.

MOTION Mr. Stoutenberg, second Mr. Jones, to close the public hearing in the matter of **Troy and Lori LaMere, 20 Shady Brook Road Extension, 5-Lot Resubdivision with a Special Exception for a Rear Lot, "50 Acre Woods"**; unanimously approved.

B. Christopher and Julie Sochacki, 1260 Litchfield Turnpike, Special Exception for an Accessory Apartment.

Mr. and Ms. Sochacki address the Commission explaining that they wanted to finish a portion of their basement as an accessory apartment for Ms. Sochacki's parents. They explained that they did not plan to change the footprint of the house and that they had obtained Farmington Valley Health District approval. Ms. Malanca stated that the house was 1469 square feet according to the assessor's card, and the applicants proposed adding a 520 square foot accessory apartment. She stated that the property was 2.04 acres, and that there were 3 off-street parking spaces. The Commission briefly reviewed the application.

Mr. Steadman opened the floor to public comment; however, no one present expressed a desire to speak.

MOTION Mr. Stoutenberg, second Mr. Pratt, to close the public hearing in the matter of **Christopher and Julie Sochacki, 1260 Litchfield Turnpike, Special Exception for an Accessory Apartment**; unanimously approved.

C. David & Phyllis Marcantonio, Special Exception for an Accessory Apartment, 279 East Cotton Hill Road.

Ms. Marcantonio addressed the Commission, explaining that she wanted to build an accessory apartment over her barn on her 8-acre property. Ms. Malanca further clarified that the Marcantonios had not yet built their primary residence on the property and planned to live in the apartment over the barn until the house was finished. Ms. Marcantonio explained that she wanted to be able to be onsite in order to protect the construction site from vandalism. She stated that she had an 85-year-old mother as well as adult child with special needs, either of whom could later use the apartment. Ms. Malanca explained that the main house had preliminary approval, and that both the house and the barn had their own septic systems.

The Commission discussed at length whether or not to approve the apartment over the barn as an accessory apartment since it was being constructed prior to the main house, which meant that the apartment over the barn would at this time be the primary residence. The Commission further discussed the ramifications of this approval if the Marcantonios were never to actually build the intended primary residence. Mr. Stoutenberg stated that, as long as the apartment over the barn met all zoning requirements for a primary residence there was no issue of concern to the Commission.

Ms. Malanca stated that any approval could as per the submitted plans, which included plans for the intended primary residence. She explained that the Marcantonios did not want to proceed with building the barn and apartment without knowing that they would be permitted to have it there permanently after the primary residence was constructed.

Mr. Steadman opened the floor to public comment, and Sue Sudeneski of 277 East Cotton Hill Road addressed the Commission. Ms. Sudeneski expressed concern for the impact on her property value if the Marcantonios never built the intended primary residence, leaving a barn with an apartment as the only living space on this property.

MOTION Mr. Stoutenberg, second Mr. Pratt, to close the public hearing in the matter of **David & Phyllis Marcantonio, Special Exception for an Accessory Apartment, 279 East Cotton Hill Road;** unanimously approved.

2. APPROVAL OF MEETING MINUTES:

A. December 8, 2010 regular meeting.

The Commission agreed to table this matter to the February 23, 2011 regular meeting.

4. PENDING APPLICATIONS:

A. Troy and Lori LaMere, 20 Shady Brook Road Extension, 5-Lot Resubdivision with a Special Exception for a Rear Lot, "50 Acre Woods."

The Commission agreed to table this matter to the February 23, 2011 regular meeting.

B. Christopher and Julie Sochacki, 1260 Litchfield Turnpike, Special Exception for an Accessory Apartment.

MOTION Mr. Stoutenberg, second Mr. Steadman, to approve the application in the matter of **Christopher and Julie Sochacki, 1260 Litchfield Turnpike, Special Exception for an Accessory Apartment** as per all oral and written testimony and submitted plans; unanimously approved.

C. David & Phyllis Marcantonio, Special Exception for an Accessory Apartment, 279 East Cotton Hill Road.

MOTION Mr. Stoutenberg, second Mr. LaPlante, to approve the application in the matter of **David & Phyllis Marcantonio, Special Exception for an Accessory Apartment, 279 East Cotton Hill Road** as per all oral and written testimony and submitted plans; unanimously approved.

5. ZONING ENFORCEMENT OFFICER'S REPORT.

Ms. Malanca briefly updated the Commission on the New England Development enforcement action. She stated that the contractor selected by the Town had completed work stabilizing the site and that it was now down to a 2:1 slope. She stated that there was still some bond money remaining for possible future restoration. Ms. Malanca also reminded the Commission of the moratorium on outdoor wood-burning furnaces that was due to expire in June. She stated that the EPA had not made public any guidelines on this matter, as had been anticipated. The Commission then briefly discussed whether or not to include regulations pertaining to windmills in the draft regulations.

6. CORRESPONDENCE:

A. Letter from the New Hartford Economic Development Commission dated 12/24/2011.

The Commission read the letter from David Childs, Chairman of the Economic Development Commission, which expressed the EDC's desire for the Planning and Zoning Commission to draft clear guidelines and standards for architectural review.

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7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

- A. Elections of Officers:**
 - i. Chairman.**
 - ii. Vice-Chairman.**
 - iii. Secretary.**

Mr. Steadman explained that the Commission's bylaws required all members to be present for elections; therefore, election of officers was tabled to the February 23, 2011 regular meeting.

MOTION Mr. Stoutenberg, second Mr. Steadman, to adjourn at 10:25PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik