

**PLANNING AND ZONING COMMISSION  
REGULAR MEETING –REVISED MINUTES  
DECEMBER 14, 2011 – 7:00 PM  
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

**PRESENT:** Chairman James Steadman, Dan LaPlante, Gil Pratt, Ted Stoutenberg; Alternates Martin Post and Peter Ventre; Commission's attorney Matt Willis; Land Use staff Certified Zoning Enforcement Officer Rista Malanca, Recording Secretary Stacey Sefcik.

**ABSENT:** David Krimmel; Alternate David Jones.

Chairman James Steadman called the meeting to order at 7:00PM. All regular members present were seated for the evening. Alternate Martin Post was seated for David Krimmel, and Alternate Peter Ventre was seated for Dan LaPlante until his arrival at 7:10PM. The entire proceedings were recorded and copies of the tapes are available in the Land Use Office.

**1. PUBLIC HEARINGS:**  
No business was discussed.

**MOTION** Mr. Pratt, second Mr. Stoutenberg, to amend the agenda to discuss items 7A and 7B first and then return to the agenda as written; unanimously approved.

**7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**  
**A. Discussion with Troy LaMere regarding fee in lieu of open space for "50 Acre Woods", an approved 5-Lot Resubdivision.**

Troy LaMere addressed the Commission regarding this matter. He explained that the entire acreage of the subdivision, including his house lot, had been used to calculate the total due for the fee in lieu of open space and that he now had a lien against his house for 1/5 of the fee required. Mr. LaMere stated that he lived on the property and did not intend to sell it or further develop it. He explained that it had been his understanding that a home lot was not included in the calculation of the total due for fee in lieu of open space, and he stated that this was not how the policy had been applied with earlier subdivisions. Mr. LaMere stated that, had he been aware that this was the actual policy, he would have requested a waiver of this provision during the public hearing process for his subdivision. He was therefore requesting that the Commission modify their approval of his subdivision so as to remove his house lot from the calculation of the total fee due in lieu of open space and to only collect the fee due from the 4 additional lots that had been created as a result of this subdivision.

Ms. Malanca explained to the Commission that the approved 5-lot subdivision was 52.203 acres; approximately 27 acres of this was Mr. LaMere's home lot. She explained, and Mr. Willis concurred, that the regulations clearly stated that all subdivided land was to be included in the calculation of the fee due in lieu of open space. Ms. Malanca explained that she had done research into this matter after Mr. LaMere first raised his concern. She found 14 subdivisions where a fee in lieu of open space had been offered by the applicant and accepted by the Commission. In 10 of these subdivisions the fee was calculated using the entire subdivided property including the home lot. In 2 of the subdivisions, the applicant asked for and was granted a waiver so the home lot was excluded. In the remaining 2, the home lot was excluded from the calculation; however, a waiver request had not been submitted so the exclusion was not approved by the Commission.

Ms. Malanca explained that if the fee due in lieu of open space included Mr. LaMere's home lot, the total due would be \$41,500; if his home lot was not included the total would be \$20,000. If the \$41,500 was spread over all 5 lots including Mr. LaMere's, each lot would be responsible for \$8,300; if it was only assessed on the 4 new lots, they would each be responsible for \$10,375. If the Commission excluded the home lot from the fee calculation, the total due for each of the 4 new lots would then be \$5,000.

Mr. Pratt expressed concern that the Commission would be setting a precedent by granting this request. Mr. Willis stated that the subdivision regulations did not contain information regarding modifications; therefore, the decision was entirely at the Commission's discretion. Mr. Stoutenberg then read from the regulations regarding precedent and stated that this would not be an issue.

Mr. LaMere's representative, Karl Nilsen, then addressed the Commission. He explained that he had been the Land Use Administrator when the fee in lieu of open space policy had been implemented. He stated that he had interpreted the regulations in the same manner as Ms. Malanca and the Commission's attorney did; however, he had been advised by the previous Commission's attorney, Thomas Byrne, that the home lot could not be included in the fee in lieu of open space calculation. Mr. Nilsen said that he had received a memorandum to that effect, and he had attempted to find that memo in the files and at Mr. Byrne's office, but was unable to do so.

Mr. Steadman then asked each member of the Commission to give their impressions on this matter. Mr. Pratt expressed the opinion that the house lot should not be included in the calculation of the fee in lieu of open space, and Mr. LaMere should not be required to pay the fee. Mr. LaPlante concurred, stating that only 4 new house lots were created; therefore, only those lots should be used in the calculation and required to pay the fee. Mr. Ventre disagreed with Mr. Pratt and Mr. LaPlante, explaining that he felt the applicant's attorney should have been aware of the regulations in effect at the time the application was filed; he believed the fee should be calculated and collected from all 5 lots. Mr. Post expressed the opinion that the fee should be calculated and collected from only the 4 new lots; if Mr. LaMere chose to further subdivide his home lot, then open space or a fee could be required at that time. Mr. Stoutenberg concurred, stating that the fee should be calculated and collected based on the 4 new lots with Mr. LaMere's home lot subject to open space requirements if and when it is ever further subdivided in the future. Mr. Steadman expressed agreement with Mr. Post and Mr. Stoutenberg.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to modify the resubdivision approval for "50 Acre Woods" to calculate the fee in lieu of open space based on the value of the raw land of 22 +/- acres on Lots 1-4 only, with the remaining acreage of Lot 5A to be subject to the open space provisions of the Subdivision Regulations if Lot 5A is ever subdivided in the future; unanimously approved.

**B. John Castellani, applicant; Castellani and Sons, LLC, owner – "Blue Ridge Lane" – approved 5-lot subdivision – Lots 1-5 to be merged into 1 lot.**

Karl Nilsen addressed the Commission on behalf of John Castellani. Mr. Nilsen explained that Mr. Castellani had been unable to sell the lots in the current economy, and he now wanted to merge Lots 1 through 5 into one lot. Ms. Malanca explained that the matter was before the Commission so that they could approve a revised map showing one lot with no conservation easement; this revised map would then be endorsed by the Chairman and filed on the land records. The Commission briefly reviewed the revised plans. Mr. Castellani explained that he planned to operate a Christmas tree farm on the new lot. Ms. Malanca informed the Commission that the Inland Wetlands Commission had already modified Mr. Castellani's wetlands permit for the property.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to approve the merger of Lots 1 through 5 as per maps and plans prepared by Hrica Associates, LLC entitled "Property Survey, Lot #'s 1, 2, 3, 4, and 5 and Parcel A, 'Blue Ridge Lane', prepared for Castellani & Sons, LLC, Ramstein Road, New Hartford, Connecticut" and dated November 28, 2011. The Commission hereby releases the requirement of a conservation easement, all liens in conjunction with fee in lieu of open space, and the fire cistern requirement included in the original approval.

The motion was unanimously approved.

**2. PENDING APPLICATIONS:**

**A. Town of New Hartford - Comprehensive Rewrite of Zoning Regulations.**

Ms. Malanca informed the Commission that the Commission's attorney had made the changes the Commission had agreed to at the previous meeting to Section 2.2 – Definitions, Section 4.2 – Permitted Uses and Structures, Section 4.4B – Area and Dimensional Requirements (Business Districts), Section 6.3E – Signs Permitted in Business and Industrial Districts, Section 6.8.C.1 – Site Stormwater Management Plan and Report, and Section 6.2.C.2.b – Plan Requirements. These were included in a document entitled "Exhibit C<sup>1</sup> - Post-Hearing Changes to Draft Zoning Regulations" which was distributed to all Commission members.

However, Ms. Malanca explained that the general business office use had not been discussed at the last meeting. She said that the draft regulations went to public hearing with general business office use listed as requiring a special exception; she requested input from the Commission as to whether they wanted this to remain the same or whether they also wanted to change this to site plan approval only. The Commission agreed that they wanted to require only site plan approval for general office use.

**MOTION** Mr. Stoutenberg, second Mr. Pratt to approve the revisions to the New Hartford Zoning Regulations, with modifications per the public hearing:

Moved, that the New Hartford Planning and Zoning Commission adopt the comprehensive revisions to the New Hartford Zoning Regulations and the accompanying design guidelines in conformance with the draft that was filed with the New Hartford Town Clerk prior to the public hearing of October 5, 2011, but with those changes indicated on Exhibits A, B, and C attached to this motion and made a part hereof. In reaching its decision on the proposed revisions, the Commission has considered the recommendations of the adopted Plan of Conservation and Development and the comments received at the public hearing of October 5, 2011.

While the revised text and the further revisions following the public hearing are addressed in this single motion for reasons of brevity, the Commission has spent the last three (3) years considering the individual changes proposed; has held numerous public workshops; has solicited many written reviews from local and State agencies and officials; has received comments from local organizations, its planning and legal consultants; and has reviewed each change in light of the adopted Plan of Conservation and Development. Therefore, each revision is separate and distinct and the invalidity of any one shall not be deemed to be the invalidity of all.

The amendments shall become effective on January 1, 2012.

The motion was unanimously approved.

**3. NEW APPLICATIONS:**

**A. Thomas Anderson, applicant; Roger Toffolon, owner – 10 Litchfield Turnpike: Special Exception for Timber Harvest within the Farmington River Overlay Zone.**

Ms. Malanca briefly explained the application, noting that the property owner had sustained a great deal of damage after Winter Storm Alfred. She stated that the property was within the Farmington River Overlay District and the activity would create greater than the permitted amount of disturbance; therefore, a special permit would be required. Ms. Malanca explained that the application had already been reviewed by the Inland Wetlands Commission, and they had determined that it was a permitted use as of right. She said that the parcel was 119 acres and was located within 500 feet of the Town line with Canton.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to schedule a public hearing for the matter of **Thomas Anderson, applicant; Roger Toffolon, owner – 10 Litchfield Turnpike: Special Exception for Timber Harvest within the Farmington River Overlay Zone** for the January 25, 2012 regular meeting; unanimously approved.

**B. Proposed amendments to the Subdivision Regulations to be in compliance with Public Act 11-79 Bonding.**

**C. Proposed amendments to the Subdivision Regulations to incorporate low impact development techniques.**

The Commission agreed to discuss items 3B and 3C together. Ms. Malanca explained that the Commission had discussed the low-impact development (LID) amendments last year; however, as these referenced the zoning regulations, the changes to the subdivision regulations could not be adopted until the new zoning regulations were adopted. Since this had now occurred, the Commission could now hold a public hearing to adopt the LID subdivision regulation amendments. Ms. Malanca then briefly reviewed the proposed changes to the subdivision regulations pertaining to bonding.

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**MOTION** Mr. Stoutenberg, second Mr. Steadman, to schedule a public hearing for January 25, 2012 regarding the adoption of amendments to the Subdivision Regulations pertaining to bonding and low-impact development; unanimously approved.

**4. APPROVAL OF MINUTES:**

- A. July 13, 2011 regular meeting.**
- B. October 5, 2011 special meeting.**
- C. October 12, 2011 regular meeting.**
- D. October 26, 2011 regular meeting.**
- E. November 9, 2011 regular meeting.**
- F. November 21, 2011 special meeting.**

The Commission agreed to table this matter to the January 11, 2012 regular meeting.

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

Ms. Malanca briefly reviewed her enforcement activities over the previous month. The Commission briefly discussed with Ms. Malanca a property on Southeast Road where at least 10 junk cars were observed. Ms. Malanca explained that she was working with the property owner and that the property was slowly becoming compliant.

**6. CORRESPONDENCE:**

No business was discussed.

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

**C. Adoption of the 2012 Regular Meeting Schedule.**

**MOTION** Mr. Stoutenberg, second Mr. Ventre, to adopt the 2012 Regular Meeting Schedule with the revision that there will be no second meeting scheduled for September 2012; unanimously approved.

**D. Election of Officers for 2012.**

The Commission agreed to table this matter to the January 11, 2012 regular meeting as all regular members were not present.

**MOTION** Mr. Stoutenberg, second Mr. Steadman, to adjourn at 8:45PM; unanimously approved.

**Respectfully submitted,**  
**Stacey M. Sefcik**