

**PLANNING AND ZONING COMMISSION
SPECIAL MEETING –MINUTES
NOVEMBER 21, 2011 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

PRESENT: Chairman James Steadman, Ken Heyse, Dan LaPlante, Gil Pratt, Ted Stoutenberg; Alternates David Jones and David Krimmel; Commission's attorney Mark Branse; Town Planning Consultant Martin Connor, AICP; Land Use staff Certified Zoning Enforcement Officer Rista Malanca, Recording Secretary Stacey Sefcik.

ABSENT: Alternate Peter Ventre.

Chairman James Steadman called the meeting to order at 7:00PM. All regular members were present and seated for the evening. The entire proceedings were recorded and copies of the tapes are available in the Land Use Office.

MOTION Mr. Stoutenberg, second Mr. Pratt, to amend the agenda to discuss item 4 first and then return to the agenda as written; unanimously approved.

4. DISCUSS AND REVIEW LETTER DATED OCTOBER 28, 2011 FROM THE NEW HARTFORD CONSERVATION COMMISSION REGARDING BRODIE PARK SOUTH (FOOTBALL):

The Recording Secretary read into the record a letter from Alison Murdock, Chair of the Town of New Hartford Conservation Commission, dated October 28, 2011. The letter expressed concern regarding the use of Brodie Park South for football practices and games and alleged that citizens' concerns were not being appropriately addressed.

Ms. Malanca informed the Commission that she had visited Brodie Park South that day with First Selectman Dan Jerram and Mark Branse, the Commission's attorney. Mr. Branse noted that many of the issues cited in the letter were not even zoning issues, and were therefore outside the Commission's jurisdiction. Mr. Branse stated that the only issue the Commission could potentially address was the question of whether or not a special exception was required. He explained that if Brodie Park South was considered a "Public Park/Playground" then the use was permitted; however, if it was "Outdoor Recreation" then a special exception would be required. Mr. Branse explained that "Outdoor Recreation Including Country Clubs" was more commonly interpreted to apply to commercial uses rather than municipal, and if it had been used in the past for municipal recreation uses that may not necessarily have been correct. Mr. Stoutenberg noted that the skate park and playground had come before the Commission for a special exception. Ms. Malanca observed that those were permanent improvements, and Mr. Connor said that even a playground could be approved via a site plan application. Mr. Branse said he understood that Brodie Park South had been used for many years for soccer practice and games; he said that courts would not likely see a great deal of difference between use for soccer and use for football.

Mr. Jones noted that there were issues with traffic, parking in the street, and lights so the park could be used after dark. Mr. Branse stated that, while these were legitimate concerns, these were all Town issues and not zoning issues. Mr. Krimmel concurred and stated that a more appropriate forum for these concerns would be a Town meeting where the Town finally decided what the use for the Brodie Park South property should be. Mr. Jones reiterated that he believed these issues were planning issues, and therefore within the Commission's purview. Mr. Branse noted that the draft regulations under discussion distinguished between passive recreation, which was a permitted use, and active recreation, which required a special exception.

Mr. Pratt asked at what time Brodie Park South was supposed to close for the day. Ms. Malanca explained that the signs said sunset; however, this was not something within her power to enforce. She noted that the Town had met with the Recreation Commission prior to the football program being allowed to use Brodie Park South. Mr. Stoutenberg concurred with Mr. Branse and Mr. Krimmel in stating that this was not a zoning issue, and he suggested this would best be addressed by the Board of Selectmen and the Recreation Commission.

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Dan Eddy of the Recreation Commission then addressed the Commission. He stated that he was the spokesman for the Commission to the Board of Finance and the Board of Selectmen. He then explained that the Recreation Commission as per their charter from 1984 was empowered to monitor the use of all nonpassive land, which included Brodie Park North and South. Mr. Eddy reiterated that soccer had been taking place at Brodie Park South for at least 20 years. He said that the regulation regarding the park closing at sunset was made by the Recreation Commission; however, it was usually enforced by the Board of Selectmen. He said he had verified with the Town Clerk that this was not a formal ordinance, but only a Recreation Commission rule. Mr. Eddy stated that football had used lights last year, and at the beginning of this past football season the Recreation Commission had emphatically stated that lights were not to be used this year. However, this had apparently not been enforced this past season.

Janet Corey of 539 Niles Road addressed the Commission to express concern that this problem was being passed around with no one actually addressing it. She asserted that while other sports had taken place there for many years, there was never the level of disturbance with soccer and golf that there now was with football.

Mr. Stoutenberg suggested that the Commission then direct the October 28, 2011 letter from the Conservation Commission to the Recreation Commission. Mr. Branse suggested that a master plan be made for Brodie Park South. Mr. Connor suggested that recommendations regarding the use of public property and open space be included in the Plan of Conservation and Development (POCD), and if Brodie Park South was not specifically addressed, the POCD could be modified via a public hearing. Mr. Eddy then informed the Commission that a study group had been created to evaluate possible locations for youth sports programs over the long term; he said that 5 spots had been identified and were being reviewed for environmental impact and necessary engineering. He said that the study would be completed within the next 3-4 months and the results would be forwarded to the Board of Selectmen. The Commission then agreed to forward a copy of the minutes of this meeting to the Recreation Commission and the Board of Selectmen and requested that they also receive a copy of the results of the study Mr. Eddy discussed. The Commission also requested that Mr. Steadman send a letter on the Commission's behalf to the Board of Selectmen regarding this issue.

1. REVIEW OF DRAFT REGULATIONS WITH TOWN LAND USE ATTORNEY AND TOWN PLANNER:

Ms. Malanca distributed to Commission members a document entitled "Remaining Items Left to Discuss." The Commission then reviewed each item on the list.

The first item was whether or not to expand requirements for stormwater management plans in the R-4 zone. Mr. Krimmel and Mr. Connor explained that the LID Committee had made the choice to specifically exclude single family homes due to the potential costs of this requirement. Mr. Connor explained that stormwater management plans were required for subdivisions, common driveways, new roads, industrial or commercial activity, and any work with greater than 1 acre of disturbance. Mr. Jones noted that while the engineering costs for the plan might be high, there was also a cost to the Town and to individual property owners of not having this requirement. Mr. Branse suggested setting a threshold whereby this requirement could be triggered for single family homes. He then explained FEMA requirements as well as the limitations of the Inland Wetlands Commission to address this issue. After a brief discussion the Commission agreed to remove the single family exception from the regulations and require a stormwater management plan for any site with 30% or more impervious surface coverage.

The next item to be addressed was multifamily housing. Ms. Malanca noted that current regulations permitted new multifamily housing in the R-15 zone by special exception; however, the draft regulations did not allow new multifamily housing in any zone. She noted that the regulations did allow for 2-family homes and conversion. The Commission decided to leave the draft regulations as they currently read for the present time so as to have time to research and discuss this matter in more detail.

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Mr. Branse then explained a proposed change in wording in the low-impact development regulations for Article 6 Section 8.C.2.b. to have the sentence now read: "Location of the closest surface water bodies and wetlands to the site and the depth to any groundwater or aquifer areas on or adjacent to the site *in those areas where stormwater facilities are proposed.*" Mr. Connor concurred with the change, and the Commission agreed to incorporate it.

Next, the Commission discussed changes to the draft signage regulations. The Commission reviewed a chart compiled by Ms. Malanca which explained what signage would be allowed in each zone and under what circumstances. The Commission ultimately agreed to the signage regulations as shown in the chart, which Mr. Branse said he would review and incorporate into the regulations. The Commission and Mr. Branse agreed to change the name of the new "Portable Permanent" signs so as to eliminate any potential confusion.

The Commission then agreed to a recess from 9:10PM to 9:15PM.

The Commission then reviewed information distributed by Ms. Malanca regarding what uses would be permitted in the I and IP zones under the draft regulations. Mr. Branse explained why he preferred to have uses by special exception, and Mr. Connor explained why use of site plan approvals might help to encourage business development in these zones. The Commission then agreed to allow wholesale business in the I zone by special exception and fitness centers in both I and IP zones by site plan approval. They agreed that contractor shop and storage with outdoor storage would be allowed in both I and IP by special exception, whereas contractor shop and storage without outdoor storage would be allowed in the I and IP zones by site plan approval. Educational and instructional uses would now be permitted in the I and IP zones by special exception. Medical office and clinics were to now be allowed by site plan approval. Indoor recreation would now be allowed in the B, C, I, and IP zones.

The Commission then discussed setbacks in the IP zone, and both Mr. Connor and Mr. Branse concurred that a 75-foot front setback was excessive for the IP zone. The Commission then agreed to change the regulations to a 25-foot front setback with no parking allowed at the front of the building; rear setbacks were to be left as written in the draft regulations.

Mr. Branse stated that he would update the draft regulations to include these items and have them ready for December 7th so that the Commission would have ample time to review them before the December 14th regular meeting, at which time they could vote on the regulations. Mr. Branse explained that his partner would be present for the December 14th meeting.

2. PROPOSED CHANGES TO THE SUBDIVISION REGULATIONS IN RESPONSE TO PA 11-79 (BONDING):

No business was discussed.

3. REVIEW PROPOSED CHANGES TO THE SUBDIVISION REGULATIONS TO INCORPORATE LOW IMPACT DEVELOPMENT:

No business was discussed.

Mr. Steadman noted that this was Ken Heyse's last meeting as a member of the Planning and Zoning Commission, and the Commission thanked him for his years of service to the Town.-

MOTION Mr. Pratt, second Mr. Stoutenberg, to adjourn at 10:00PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik