

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
Wednesday, July 13, 2016 at 7:00 PM
New Hartford Town Hall
530 Main Street, New Hartford, Connecticut**

PRESENT: Ted Stoutenberg, Jim Steadman, David Krimmel, Dan LaPlante, Bob Moore, Alternate Tom McLoughlin, and Zoning Enforcement Officer Ruth Mulcahy.

ABSENT: Marty Post and Peter Ventre.

Chairman Ted Stoutenberg called the meeting to order at 7:05PM. The entire proceedings were recorded digitally and are available in the Town Hall.

1. PUBLIC HEARINGS:

A. Town of New Hartford – Amendments to Town of New Hartford Zoning Regulations – Add Section 5.7. West Hill Pond Protection Overlay District.

Ms. Mulcahy read aloud the legal notice for the Public Hearing.

After explaining protocol for the public hearing, Mr. Stoutenberg also explained why the Commission is proposing an amendment to the Town's Zoning Regulations, specifically adding a West Hill Pond Protection Overlay District. He noted that the Plan of Conservation and Development (hereinafter referred to as POCD) contained a task within it to protect the water quality of West Hill Pond. Regarding this proposed Amendment, Mr. Stoutenberg explained that the Commission may only consider what was published and subject to this public hearing before a subsequent adoption. He noted that items may be deleted from the document but may not be added to it. Mr. Stoutenberg also suggested that if any residents have ideas on what should be included or left out, they should submit it to him in writing.

With regards to protecting water quality at West Hill Lake, only future development can be regulated by the Planning and Zoning Commission, according to Mr. Stoutenberg. He explained that only an Ordinance, considered and adopted through a Town Meeting, would provide for new regulation of existing properties and improvements. Mr. Stoutenberg also pointed out that this Commission only has control over the portion of the pond that lays within New Hartford, noting that the north end of the pond lays in Barkhamsted. He also explained that this Town does not regulate the boat launch as this is regulated by the State.

Mr. Stoutenberg then explained that the Overlay Zone, as proposed, coincides with the boundaries of the R-4 Zone. He explained that the purpose is to protect the water quality to the extent that this Commission has jurisdiction. To this end, the proposal includes to increase the buffer strip around the pond from fifty (50') feet to seventy-five (75') feet for any new proposed development, according to Mr. Stoutenberg. He also noted that the proposal includes restrictions on new docks and the elimination of impervious pavement such as asphalt and concrete. Finally, Mr. Stoutenberg pointed out that another key point of the proposal is the planting of the type of plants, in the buffer strip, that will absorb the nutrients and slow down the flow of the surface water.

Mr. Nelson Sly of 57 Aquatic Road, identifying himself as the President of the West Hill Pond Association who as he noted are the owners and operators of the West Hill Dam, and was formed with the purpose to preserve and protect the water quality of the lake, addressed the

Commission. He noted that his group fully supports the action item contained within the Town's POCD to upgrade and repair, wherever possible, current storm water drainage systems and develop and implement low-impact development (hereinafter referred to as LID) solutions. Mr. Sly reported that the level of phosphorus, the main source of algae, has increased almost three-fold since 2002. He then introduced Dr. Knoecklein, who has been retained since 2002.

George Knoecklein, Ph. D. and Limnologist, from NorthEast Aquatic Research, then addressed the Commission. He explained that last year, he was contracted to conduct a serious investigation of West Hill Pond and noted that a draft report had been prepared including a number of recommendations. Dr. Knoecklein explained that the increase seen in nitrogen and phosphorus in the lake is derived from people, the development of the water shed and the residences within watershed. He opined that West Hill Pond has the best water quality of any lake he has seen in Connecticut. Dr. Knoecklein explained that in order to keep this pond pristine, the Town needs to severely limit the phosphorus and nitrogen to the water. He noted that people expel these nutrients from their body, which are discharged into septic systems which then travel to the leach fields, from the leach fields into the soils around the watershed, and then drain as ground water into the lake. Development in terms of exposing sediments then allows the phosphorus to travel down the hill as part of either stormwater or erosion and winds up in the lake in either the form of sediment/phosphorus or as dissolved phosphorus. Dr. Knoecklein pointed out that once the phosphorus is in the lake, it stays in the lake as it has no gaseous state. Finally, he noted that he fully supports the Commission exploring additional regulations to protect the water quality of the lake.

Mr. Bill Adamsen of 166 Camp Workcoeman Road spoke in favor of the Regulation noting that it stems from an action step from the POCD. He opined that the most critical point in the proposed regulation is the provision detailed in G.4.A. mandating that a storm water plan be submitted with every application for any site disturbance.

Ms. Chris Banks of 632 West Hill Road spoke in favor the Regulation, explaining that she is also a resident of Florida whose coastal waters has also been experiencing algae blooms. Ms. Banks opined that the problem relates to septic systems. She suggested that there should be some type of regulating the frequency to which systems are pumped out.

Mr. Stoutenberg noted that this Commission would be unable to endorse something like that but that it is a good example of what could be addressed through an ordinance.

Ms. Jean Cronauer of 25 Red Clover Road congratulated the Commission in their efforts to protect West Hill Lake. She urged the Commission to consider the common good of all the town residents, such as the beach users and summer campers, and the immense value of helping West Hill Pond to the Town. She noted that West Hill Lake is a valuable resource to the town and is worthy of protecting.

Mr. Steve Unger of 706 West Hill Road generally supported the proposed regulation, notably the ability of the Zoning Enforcement Office to issue permits under certain circumstances. However, he also relayed his concerns with the proposed size of the buffer strip, and suggested modifications be made. Mr. Unger opined that the proposed regulation should be adjusted in terms of docks, too.

Mr. Peter Humphrey of 273 Niles Road voiced his support for the proposed regulation but shared his concern with the section on docks. He opined that there are practical things that still need to be considered with it.

Mr. Tom Beecher of 142 Camp Workcoeman Road, noted his cottage lacks a basement, central heat, a well, and reported that he has served as past president and board member of the West Hill Lakeshore Property Association, a distinct and different group than the West Hill Pond Association. Additionally, he explained that he is a land use attorney, representing the Town(s) of Ridgefield and Brookfield Planning and Zoning and Inland Wetlands Commission(s). Attorney Beecher then offered to lend some constructive suggestions, noting that this Commission should have the ability to require a storm water management plan any time the 2500 square foot disturbance site plan requirement is triggered. He also urged the Commission to consider flexibility in the regulations rather than assuming a “one size fits all” approach. Attorney Beecher then distributed to Commissioners the proposed Amendment to Town of New Hartford Zoning Regulations, as is, along with an additional version including his suggested modifications identified in the color red. He then reviewed his suggested changes.

Ms. Shelley Lloyd of 29 Pioneer Drive noted that she generally supports the need for regulations around the lake but shared her concern with wording in terms of the possibility of disenfranchising some homeowners in what they may be able to do with their properties. Ms. Lloyd noted that she would like to see a reduction in the buffer zone and would like to see clarification as to what triggers the regulations to having to be followed. She noted her support for requiring the storm water management component to be kept within this proposed amendment.

Ms. Judy Harmon of 31 Aquatic Road noted her excitement at the efforts being made to protect the water quality of West Hill Lake.

Mr. Steve Kayser of 122 Camp Workcoeman Road questioned what the proposed amendment would apply to.

Ms. Mulcahy explained that it would depend on the project, how much disturbance is of the land, whether the application would be a replacement of an existing improvement or whether it would be for a new addition. She noted that the storm water management plan would be considered.

Mr. Dave McNally of the Laurel Acres Property Owners Association of Barkhamsted addressed the Commission, noting that his group owns the beach and all of the property that the dam is located on as well as the property next to the boat launch. He noted that his group supports and applauds the efforts of this Commission in this initiative.

Mr. Paul Guilmette of 632 West Hill Road spoke in favor of the proposed amendment and also distributed copies of a March 9, 2016 newspaper article from The Sun regarding septic systems as a “major water culprit”.

Mr. Chuck Lindsey of 112 Pond Road noted his agreement with the sentiments expressed by Attorney Beecher and Mr. Unger, recommending to the Commission to keep balance in mind, noting that a seventy-five (75’) foot setback would extend behind his cottage. He also noted his objection to the inclusion of docks as part of the amendment.

Mr. Martin Seifert of 704 West Hill Road, noting that by profession, he is a Geologist having studied under Mr. Al Freeze, the founder of quantitative groundwater hydrology, and having himself worked on BC Site C Dam, considers himself competent in the area of water, water quality and dams. Mr. Seifert explained that while he and his wife agree that the lake needs to be regulated, most of the properties in the area will be legally non-compliant especially with a

seventy-five (75') foot buffer. He also expressed concerns with the prohibition of grass that would result, opining that grass in and of itself is not bad. Mr. Seifert explained that more important is the slope of the land and the geology and many other considerations. He also expressed concern with blanket exclusions rather than using the term "consider". Mr. Seifert also urged reconsideration with the proposed restrictions to be imposed with regards to docks. Finally, the regulation of plantings was also noted.

For a second time, **Mr. Steve Unger of 706 West Hill Road** addressed the Commission. He questioned whether the proposal as drafted would preclude any such encroachment within seventy-five (75') feet even in the event of a failing septic system or in the instances that the lot is not even that deep in the first place. Mr. Stoutenberg explained that existing nonconforming properties will have to be addressed through additional language on a case by case basis. Ms. Mulcahy explained that any zoning regulation can be appealed to the Zoning Board of Appeals.

Mr. David Boyajian of 791 West Hill Road (Camp Sequassen) noted that the camp is the largest lake front owner on West Hill Pond. He explained that the lake is what pulls people to the camp and that the camp is therefore in favor of regulating the lake but opined that with each property being so different from the other, agreed that applications should be decided on a case by case basis. He agreed with Mr. Adamsen's assertion that storm water management plans are the most vital part of the amendment but disagreed with the inclusion of regulating docks. Mr. Boyajian also expressed concern that if the camp were to submit an application for an improvement, under the current proposed amendment, they would then be mandated to bring their 2200 feet of lake shore into compliance with the regulation.

The Reverend Kevin Cavanaugh of 624 West Hill Road shared his concerns and reservations regarding the proposed amendment, noting that the restrictions are in many cases significantly more severe and restrictive than the Farmington River Protective River District. He questioned whether the proposed regulations have been reviewed by the town attorney. Rev. Cavanaugh noted that the proposed regulations do not appear to attempt to conform to or allow accommodations in regard to the Americans with Disabilities Act. He noted that as a disabled veteran, this holds particularly true in terms of the restrictions that will be imposed in terms of an asphalt driveway and a fixed dock. Also noted as a concern is how this proposed amendment might adversely impact property values. Rev. Cavanaugh submitted a written copy of his comments for the record.

Mr. Gerry Kelly of 96 Rickie Drive opined that the Town of New Hartford is the greatest contributor to the water quality issue at the Lake due to the product used on the roads during the winter.

Ms. Karen Griswold Nelson of 57 Stedman Road praised the Commission, with special accolades to Ms. Mulcahy, for moving forward with these regulations, opining that they are very much in keeping with many of the regulations in town that have addressed water quality protection for natural resources.

Ms. Linda Preysner of 114 Pond Road opined that some of details are "one size fits all" and therefore should not be included in this document, and instead addressed at a later time so that the storm water management component can move forward now. Ms. Preysner opposed the size of the buffer zone and the restrictions regarding the docks.

For a second time, **Mr. Tom Beecher of 142 Camp Workcoeman Road** addressed the Commission, requesting that the Commission not defer to the Zoning Board of Appeals to grant

the exceptions explaining that a variance requires four out of five votes and the requirement for receiving a variance is a “legal hardship”. He noted that flexibility within the Regulations works much better. Additionally, Mr. Beecher confirmed that the letter from Peter Mangin addressed to Ruth Mulcahy, dated July 12, 2016, was distributed to all the Commissioners. Ms. Mulcahy noted that the letter is in the record. Finally, Mr. Beecher questioned what the next step will be.

Mr. Stoutenberg indicated that the public hearing would likely be closed at this meeting and that the Commission will likely review with Ms. Mulcahy, and plan to take action at the next meeting.

For the second time, **Mr. Martin Seifert of 704 West Hill Road** addressed the Commission to ask what actions will occur next.

For the second time, **Ms. Shelley Lloyd of 29 Pioneer Drive** addressed the Commission, questioned whether the proposed amendment is revisited and changes were to be made, whether this would preclude any additional public comment. Mr. Stoutenberg reiterated that the Commission can only act on what was included as part of the published legal notice and that they would not be expanding what has been proposed but may consider eliminating or omitting portions.

Mr. Tom Sloss of 60 Marstan Trails noted his support for what he characterized as the positive aspects of the proposal such as the inclusion of storm water management plans. He noted that his major concern is with the dock restrictions. Mr. Sloss observed that no differentiation has been made relative to docks with private landowners and associations.

For a second time, **Dr. George Knoecklein** again addressed the Commission. He offered to write comments on the proposed amendment or to review them at this public hearing. Dr. Knoecklein then encouraged the Commission to allow people to review what he termed, “the second version”. Mr. Stoutenberg explained that the Commission will be making reviews with Ms. Mulcahy but that should Dr. Knoecklein have suggestions, he should forward them to her directly.

MOTION: Mr. Krimmel, Mr. Steadman second, **to continue the public hearing until the next regular meeting of July 27, 2016; unanimously approved.**

2. PENDING APPLICATIONS:

A. Town of New Hartford – Amendments to Town of New Hartford Zoning Regulations – Add Section 5.7. West Hill Pond Protection Overlay District.

After a brief discussion of what might be manageable in terms of approving an amendment as it would relate to the calendar, this item was continued to the next regular meeting, July 27, 2016.

3. NEW APPLICATIONS:

A. Franklin Park Realty, LLC/Applicant – Griffin’s Service Center Inc./Owner – Map 37A – Block 122 – Lot 001, 507 Main Street & Map 37A – Block 122 – Lois 1A & 1B Main Street – Site Plan Approval – Section 4.2.9.b. – Construct a Restaurant with a Drive-Through Window.

This application was accepted and scheduled for a public hearing for July 27, 2016. Ms. Mulcahy canvassed the Commission as to whether an alternative engineering firm should be contracted for the independent review on this application. She reported that in a conversation with the applicant, it was discovered that Lenard Engineering has done work for this applicant in the past. Mr. Stoutenberg directed Ms. Mulcahy to have a conversation with Lenard Engineering to allow them to make this determination and noted that he does not see a conflict

of interest from the Town's perspective. Ms. Mulcahy agreed that she would speak to Roger Hurlbut on this.

4. APPROVAL OF MINUTES: May 25, 2016

The approval of the May 25, 2016 Minutes was tabled to the next meeting.

5. ZONING ENFORCEMENT OFFICER'S REPORT:

None.

6. CORRESPONDENCE:

No business discussed.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

MOTION: Mr. Steadman, Mr. Laplante second, to adjourn at 9:20PM; unanimously approved.

Respectfully submitted,

Pamela A. Colombie
Recording Secretary