

TOWN OF HARPERSFIELD
RESOLUTION NO. 013 OF THE YEAR 2022

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: APPLICATION OF MONROE BALANCING ANALYSIS TO DETERMINE VILLAGE OF STAMFORD IMMUNITY FROM TOWN OF HARPERSFIELD SUBDIVISION REGULATION FOR CONVEYANCE OF 6.65 ACRE PORTION OF TAX PARCEL #41.-1-4.

DATE: September 14, 2022.

WHEREAS, by deed dated May 13, 2022 and filed in the Delaware County Clerk's Office as Instrument #4963, the Village of Stamford ("Village") conveyed a six point six five (6.65) acre portion of a larger 24.3 acre parcel of land identified on the Delaware County Tax Map as Parcel #41.-1-4 Catskill Mountain Little League. A copy of said deed is attached hereto. The 6.65 acre portion of Tax Parcel #41.-1-4 that was conveyed by the Village is referred to herein as the "Ballfield Parcel"; and

WHEREAS, the deed conveying the Ballfield Parcel included a condition that the Ballfield Parcel be used as a park which will "benefit and serve the public"; and

WHEREAS, the Ballfield Parcel is located in the Town of Harpersfield ("Town") and will have access via a right of way over land owned by Prospect Enterprises, Inc. for ingress and egress from New York State Route 10; and

WHEREAS, the Town of Harpersfield Subdivision Regulations (Local Law No. 1 of 1995) provides as follows: "[w]herever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure is such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply for a secure approval of such proposed subdivision in accordance [with the Town Subdivision Regulations]"; and

WHEREAS, the Village did not apply for or secure approval for a subdivision before conveying the Ballfield Parcel for use as a park to benefit and serve the public; and

WHEREAS, the Harpersfield Planning Board ("Planning Board") has now received an application for site plan approval to build a recreational complex with regulation little league diamond with lights, a second "Multi-Use" diamond that would serve little league baseball while enabling the eventual creation of league-sanctioned softball, a bullpen, batting cage, concession stand, announcer's booth and accessory parking; and

WHEREAS, the application for site plan approval is an action subject to SEQRA and the Planning Board has declared its intent to act as Lead Agency under SEQRA 6 NYCRR 617.6 and commenced a coordinated review with other involved and interested agencies; and

WHEREAS, during the Planning Board's review of the site plan application, it was determined that the Village had not applied for or obtained subdivision review before conveying the Ballfield Parcel; and

WHEREAS, under the "balancing of public interests" test adopted by the New York Court of Appeals in the *Matter of County of Monroe v. City of Rochester*, the Village's subdivision and conveyance of the Ballfield Parcel may be deemed immune from the Town's Subdivision Regulations if after consideration of the relevant factors, the Harpersfield Town Board determines the balance of said considerations weighs in favor of granting immunity.

NOW, THEREFORE, the Harpersfield Town Board hereby adopts the following findings:

1. The nature and scope of the instrumentality seeking immunity. The nature and scope of the instrumentality seeking immunity is the Village of Stamford. The Village owned a 24.3 acre piece of property located in the Town and conveyed the Ballfield Parcel without obtaining subdivision approval from the Planning Board prior to the conveyance, thereby indicating its belief that the conveyance was immune from the Town's subdivision regulations.
2. The kind of function or land use involved. The kind of function or land use involved relates to the Village's intent to convey the property so that it can be used for the benefit of the public and its proposed improvement by the Catskill Mountain Little League as a recreational complex.
3. The extent of the public interest to be served thereby. The Catskill Mountain Little League has not had a field to use in Harpersfield or Stamford since 2020 when the Timothy Terry Field was selected as the proposed site of a new community swimming pool. The Village's conveyance of the Ballfield Parcel for a nominal consideration and the Catskill Mountain Little League's subsequent development of a recreation complex with grant funding from the Robinson-Broadhurst Foundation will promote the public interest by providing a location for Catskill Mountain Little League to continue to operate and hold games and other events that benefit the larger community.
4. What the effect of local land use regulation would have upon the enterprise concerned. The Village's conveyance of the Ballfield Parcel without obtaining subdivision approval will not create the potential for adverse impact to the Town because the proposed recreation complex will require a review of potential environmental impacts under SEQRA and site plan review under the Town's local law which is currently ongoing. The main purpose of the Subdivision Law is to ensure that new parcels that are created by a subdivision are sustainable lots with road access and are suitable for sewer and sewer utilities without an adverse impact on the surrounding properties. This purpose can be achieved through the Planning Board's review of proposed development on the Ballfield Parcel.
5. The impact upon legitimate local interests. With respect to the impact on legitimate local interests, the deed conveying the Ballfield Parcel states the Village's intent to

allow the property to be used in a manner that provided a benefit to the community and serve the public interest. As the subdivision was necessary to allow any future development of the Ballfield Parcel for the benefit and service of the public, a determination that the subdivision is immune from the Town's subdivision regulations furthers a legitimate local interest in this specific case.

6. The encroaching government's legislative grant of authority. Subdivision Regulations do not exempt the Village owned land in the Town from its requirements and there is no known legislative grant of authority that grants the Village authority to subdivide its property within the Town without obtaining necessary approvals or a Town Board determination. However, it is recognized that the Village intended to convey the Ballfield Parcel to facilitate its use by the public and conveyed it for a nominal consideration to Catskill Mountain Little League which is in turn relying on grant funding to develop the proposed recreation complex to the extent practical to obtain an actual benefit for its community.
7. Alternative locations for the facility in less restrictive zoning areas. There are no alternative locations. The Ballfield Parcel is a portion of a Village owned parcel that was not needed by the Village and therefore could be devoted to a use that would benefit and serve the public. The Village was willing and able to convey the Ballfield to Catskill Mountain Little League for a nominal value to facilitate this use.
8. Alternative methods of providing the needed improvements. There are no affordable alternatives for the needed improvements. See response to Factor No. 7.
9. Intergovernmental participation in the project development process and an opportunity to be heard. The Town Planning Board is conducting a coordinated SEQRA review in connection with Catskill Mountain Little League's application for site plan application for the proposed recreation complex and has included the Village of Stamford, in addition to NYS DEC, NYS DEP, Delaware County, NYS Office of Parks and Recreation and others, in its coordinated review. The Village also received direct notice of the public hearing that was held on the site plan application on August 31, 2022.

NOW, THEREFORE, BE IT FURTHER RESOLVED, based on a consideration of the factors set forth above and the findings adopted herein, the Town Board hereby determines that the Village's conveyance of the Ballfield Parcel to Catskill Mountain Little League is immune from review and approval under the Town's Subdivision Regulations and that the plat depicting the two parcels, revised August 8, 2022, may be filed in the Delaware County Clerk's Office without Planning Board approval provided the plat is amended to include any changes required by the Planning Board during the course of its site plan review and the following note is added to the plat before it is filed:

1. "Lot 1 is not being approved as a building lot by the Town of Harpersfield Planning Board".

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Town Board hereby authorizes the Town Attorney and Chairman of the Planning Board to prepare and execute any documents necessary to effectuate this resolution.

WHEREUPON, this Resolution was declared adopted by the Town Board of the Town of Harpersfield.

Seconded by Councilmember Matthew J. Taylor with the vote as follows:

Supervisor	James Eisel Sr.	Aye.
Councilmember	Matthew J. Taylor	Aye.
Councilmember	Patrick F. Funk	Aye.
Councilmember	Lisa M. Driscoll	Absent.
Councilmember	Erik R. Reeve	Aye.

STATE OF NEW YORK }

COUNTY OF DELAWARE }

TOWN OF HARPERSFIELD }

I, Linda E. Goss, Town Clerk for the Town of Harpersfield have compared the preceding copy with the original Resolution on file in this office adopted by the Town Board of the Town of Harpersfield at a regular meeting held on September 14, 2022, and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original.

Witness my hand and seal of the Town of Harpersfield, on this 15th day of September, 2022.



Linda E. Goss, Town Clerk

Town of Harpersfield