

**TOWN OF SOMERS
PLANNING COMMISSION
P.O. BOX 308
SOMERS, CONNECTICUT 06071**

**PLANNING MINUTES
REGULAR MEETING
THURSDAY, JULY 19, 2007
TOWN HALL 7:00 P.M.**

I. PUBLIC HEARING

**a. Resubdivision Application#402, 6 Lots, 455 Ninth District Road (North Farm Estates),
Bernier**

Vice Chairman Cliff Bordeaux called the public hearing to order at 7:05 p.m.

Land Use Attorney Chris Smith of Shipman and Goodwin spoke on behalf of Jennifer and John Bernier. John Martucci, Civil Engineer, and Sandy Aeschliman, Land Surveyor were also present for the applicant.

Attorney Smith noted that the only modification made on the newly submitted plans was to one of the pipes between Lots 2 and 3 with respect to the storm water quality pipes according to Mr. Strauss's recommendation.

They have received a letter from Mr. Russo dated 6/28/07 and they have prepared a response to the letter.

There was a gate and stone pile which has been added to each sheet of the subdivision plans.

Mr. Strauss and Mrs. Carson went out to the site on Tuesday with Mr. Aeschliman to determine whether or not there were any existing conditions not shown on the plans and whether there was a road from the barn to the gate on the easterly side of the property. They did not find any existing roadway on the property.

There was an issue raised by Mr. Russo in his letter regarding the grades for the driveways and Mr. Strauss has noted that it now has been adjusted in order to meet the regulations.

The last issue was the radial line issue. A couple of the lots were situated so that they did not comply with the radial line regulation. It was recommended by staff that the applicant re-look at this and it has now been adjusted so as to not need a waiver.

He commented on Attorney Blaymore-Patterson's remarks about the issue of whether or not this is a subdivision or a re-subdivision by stating that Mrs. Carson has indicated that the only difference between them is that a public hearing is required for a re-subdivision and may not always be required for a subdivision. Since there has been a public hearing on this matter, there is no prejudice as to subdivision or

resubdivision involved in this case.

He addressed each of Mr. Russo's comments from his letter.

Sandy Aeschliman stated that he did make the adjustment to make a plus 3% upgrade from the street line for 15 feet. Originally it had been from the pavement. Also a note has been added to the plans saying that all driveways have to meet the driveway regulation which has been included verbatim.

The radial lot lines have been changed but the computations are not yet on the plans. The information has been brought forward so if the Commission wants the change, one can be easily implemented.

Merv Strauss explained that he, Patrice Carson and Sandy Aeschliman visited the site and gave a report of his visit. As a Registered Land Surveyor, he felt there was nothing else that needed to be shown on the plans.

Mrs. Carson stated that she agreed with what Mr. Strauss reported. She added that the map scale is in fact 1 inch = 40 feet on most of the plans with the exception of 2 sheets at which point the map scale goes to 1 inch = 50 feet. This is within the range of the regulations which state that the maps scales shall be 1 inch = 40 feet to 1 inch = 100 feet. The reason for the 1 inch = 50 feet in this case is so that they can fit the entire lot on one sheet.

Regarding the certification of the Board of Selectmen and the Commissioners being officially sworn in which was brought up at the last public hearing, Mrs. Carson has checked with the Town Clerk who is the authority for doing that and all of the Commissioners and current Board of Selectmen are officially elected, sworn in and confirmed at Town Meeting.

Regarding the question of having several meetings prior to the public hearing where audience comments are not allowed, the Town Attorney has advised that the proper forum for audience comments is the public hearing process. There are minutes taken at all meetings that are not public hearings and they are available for public view. Also there are tapes if someone wants to hear them word for word. Most of the people in the audience were in attendance at the meetings prior to the public hearing. It has been the Commission's practice since at least 1987 to have the applicant submit an application, the Commission would receive it and then have discussion with the applicant and staff to the point where the shortcomings of the plan would be addressed and then it would go to the public hearing stage. Procedure has been no different in this case.

Mr. Strauss noted that since the radial line can conform to the regulation without serious issue, then he would recommend doing that.

Attorney John Parks, O'Grady and Parks, spoke on behalf of the Mr. and Mrs. Sobaski and Mr. and Mrs. Pease. He explained that if the Commission is of the opinion that the existing right of way is for the courts to decide, then the Commission should at least consider the layout of the land, the evidence of some interaction between it and the adjacent parcels, and request that the applicant provide sufficient information to evaluate the need for a stub road. His feeling is that one way or the other these parcels are

going to be able to get to a public road and the Commission is obligated by Regulation 213-38C. to consider the effect of the configuration being proposed on other land.

Discussion followed as to which parcels are landlocked and about the stub roads.

Edward Wysocki, 337 Jobs Hill Road, Ellington, was concerned that his comments regarding stub roads were omitted from the minutes of the last meeting and his company name was not properly included. He also read a letter he had written pertaining to the stub roads dated July 19, 2007, in which he noted that he would insist that both the Berniers and the Commission abide by the regulations in providing a stub road.

Steve Sobaski, Ninth District Road, stated if the land locked parcels are left with no access this would be extremely unfair.

Roger Pease, 370 Ninth District Road, talked about the roadway clearly being shown on documents on file. He questioned what would happen when they do go to court and win with respect to the application and the right of way.

Joseph Russo, 479 Ninth District Road, stated that the topography across the power line is rolling and very easy to develop and should eventually be developable despite being across property lines.

Attorney Amy Blaymore Patterson, 74 Box Mountain Drive, Vernon, provided copies of a letter Mr. Russo prepared in response to the applicant's response to his last letter. The letter was dated July 19, 2007. She also said that the applicant appears to be coming from a sense of entitlement with respect to their application and is not offering alternatives to their plan. They could offer alternatives which would comply with the intent of Section 213-24 of the Regulations and Mr. Russo agreed that such a plan could be designed.

Sam Pinney, 328 Pinney Road, stated that he has property abutting Mr. Sobaski and he is concerned with the run off that will be created and possibility of increased contamination to his property. His land is protected and the development rights have been sold to the state and they will probably be concerned as well.

Edward Wysocki, 337 Jobs Hill Road, Ellington, commented about the topography of the land, noting that it is very buildable.

Jodi Sobaski, 432 Ninth District Road, commented that they are still awaiting a traffic study.

Steve Sobaski, Ninth District Road, commented that the any increase in the water flow is going to cause overflow of the banks and regulations require a drainage easement should this happen.

Attorney Roland Grant, 457 Main Street, spoke as a representative of Sam Pinney who recently purchased Elm Knoll Farm. Their property abuts the Sobaski's and because of the drainage issue, his clients wish to be informed of any future meetings. Mrs. Carson gave them information about how to go about receiving this information. He noted that there is potential for serious environmental issues

affecting his clients due to the salt getting into the drainage pond.

Mrs. Carson asked about the detention basin and whether or not the one-foot increase had been made to the pond. Mr. Smith noted that the applicant would be willing to make that modification if required. A lengthy discussion followed about the drainage issue.

Attorney John Parks, O'Grady and Parks, noted that the regulations state that stub roads "shall" be included which denotes that they are mandatory.

Jodi Sobaski, 432 Ninth District Road, noted that she was at the Conservation Commission Meeting and they could not determine whether or not the water drainage would adversely impact the property.

Discussion followed about the computations regarding the drainage calculations. Mr. Bordeaux asked if the Commission had all the information necessary in order to make an informed decision. The meeting recessed at 9:47 p.m. for staff consultation and to get another recording tape and resumed at 10:10 p.m. about this issue.

Merv Strauss asked for more information regarding stub roads and the feasibility of subdividing the adjoining properties.

Sandy Aeschliman stated that if you put in a stub road, he believes it will exceed the 1,200 feet requirement for a cul-de-sac, with the exception of the Russo property. But there are development limitations including the power lines and the frontage and it's proximity to Pinney Road. Discussion followed about this issue.

Brad Pellissier commented that he felt the regulation regarding stub roads was being misinterpreted. He explained that the idea being conveyed in the regulation is to develop a useable road system for the Town. He doesn't think there was ever any intent in the regulation to determine whether or not someone needs someone to place a stub road in a certain spot for someone in order to develop their property in the future, but rather so that the Town can have a system of roads that actually goes somewhere. Further discussion took place in order to clarify Mr. Pellissier's point and the regulation as well.

James Wysocki, Wildlife Forest Management, 62 Eaglebrook Drive, stated that he doesn't believe that the Commission has the authority to make any decision this evening since they haven't been property sworn in. He also made extensive comments about the stub roads. Also, with respect to the 1,200-foot issue for a cul-de-sac, he noted that they are asking for a paper road, not a paved road.

Discussion continued as to whether or not a stub road should be included. It was noted that the staff concluded that a stub road was not needed based on the fact that there are so many different land owners and not one contiguous lot, and because of the distance it would take to get to these properties which would be over the 1,200 foot cul-de-sac limit. Mrs. Carson noted that if the Commission required a stub road into the Russo property it would create a position where the house would have to be located under the power lines which is not allowed.

Engineer John Martucci, engineer for the applicant, noted that according to his calculations it is his professional opinion that they are not increasing the peak flow to the property in any way.

A discussion followed as to whether or not a decision should be made on the application by the Commission prior to the court's decision. Mrs. Carson stated that the Commission cannot deny an application based on there being a court action in place.

A motion was made by Joe Iadarola, seconded by Brad Pellissier and unanimously voted to close the public hearing at 11:07 p.m.

II. CALL TO ORDER

Vice Chairman Cliff Bordeaux called the regular meeting to order at 11:08 p.m. Members Cliff Bordeaux, Greg Genlot, Brad Pellissier and Alternate Member Joe Iadarola (seated for Karl Walton) were present and constituted a quorum. Town Engineer Mervyn Strauss and Patrice Carson were also present.

Brad Pellissier will not be at the next meeting.

III. OLD BUSINESS

a. Discussion/Possible Decision: Resubdivision Application #402, 6 Lots, 455 Ninth District Road, (North Farm Estates), Bernier

A motion was made by Joe Iadarola, seconded by Brad Pellissier and unanimously voted to table this item.

b. Special Use Permit Application for Shady Lake ARH Project, 31 South Road, Shady Lake LLC – Set Public Hearing Dates

Mrs. Carson noted that the applicant has public health approval and a wetlands permit. Discussion was held about the decks and patios. Association Bylaws need to be submitted for Town Attorney review. A motion was made by Greg Genlot, seconded by Brad Pellissier and unanimously voted to set the public hearing for Thursday, August 2, 2007, at 7:00 p.m. in the Town Hall.

c. Subdivision Application #403, 8 Lots, 88 Battle Street (Pine Knob Estates), Horizon View Estates, LLC

The applicant wishes to grant the Commission an extension in order to hold the public hearing on September 13, 2007. They have now proposed a new design for the drainage system. Mr. Strauss noted that a traffic report will definitely be needed.

The applicant offered a fee in lieu of open space and the Open Space Committee has already suggested taking a fee. It was the consensus of the Commission to accept a fee in lieu of the open space requirement.

A motion was made by Brad Pellissier, seconded by Greg Genlot and unanimously voted to accept the

extension and set the public hearing date for Thursday, September 13, 2007, beginning at 7:00 p.m. in the Town Hall.

d. Fire Fighting Water Supply Ordinance/Cistern Regulations – Referral to Selectmen

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This item was tabled.

A motion was made by Joe Iadarola, seconded by Brad Pellissier and unanimously voted to take Item a, New Business, out of order.

IV. NEW BUSINESS

a. Modification of Permit #397, Bridge Crossing Instead of Culvert, Battle Street (Gillette's Crossing), KRL Builders

Mr. Strauss described the modification of the plan for the Commission. The plan was approved by the Planning Commission but when it went before the Army Corp of Engineers modifications were made. A bridge and detention area will be placed through the area instead of a culvert with no footprint to the wetlands. Mr. Strauss noted that the plan is feasible and he has no outstanding issues with the project. The bond will be amended to \$1,433,098.00 and it is acceptable to Mr. Strauss.

No public hearing is required because there is no change to the subdivision lots. The Wetlands Commission has reviewed the plan with a positive report and is scheduling a special meeting on July 25 to approved the application.

A motion was made by Joe Iadarola, seconded by Brad Pellissier and unanimously voted to approve KRL Builders' application #397m to modify subdivision application #397, granted on February 8, 2007, in accordance with the plans known as "Subdivision Plan, Gillette's Crossing, Prepared for KRL Builders, Somers, Conn.", dated: 11-9-05, Revised: through 7-18-07, sheets 4, 5, 6, 9, 10, 11, 14, 15, and 22 or 22. This is a drainage modification to place a pre-stressed bridge and detention area outside the wetlands limits in place of the culvert on Mason Lane to the east of the Bailey Lane intersection and revise the bond estimate to \$1,433,098.00.

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III. OLD BUSINESS (cont.)

e. Zoning Referral: Zoning Regulation Amendments for Somersville Center Overlay District

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After a brief discussion of two changes to the "Historical Context" section of the amendment stating "(the Mill), *which was* founded by the Keeney *family*", a motion was made by Brad Pellissier, seconded by Greg Genlot and unanimously voted to recommend approval of the Somersville Center Overlay District to the Zoning Commission with a few housekeeping changes as noted. The Planning Commission wholeheartily supports this amendment which was part of the Plan and Conservation Development's recommendations regarding a design-type district in the Somersville area.

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f. Other – There was no Other Old Business.

IV. NEW BUSINESS (cont.)

b. Other – There was no other New Business.

V. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT

Mrs. Carson asked the Commissioners to attend the Zoning Commission's public hearing on Monday night regarding the Somersville Center Overlay District.

VI. STAFF/COMMISSIONER REPORTS – No reports were given.

VII. AUDIENCE PARTICIPATION – There was no audience participation.

VIII. CORRESPONDENCE AND BILLS

There were no bills or correspondence.

Mrs. Carson requested funds be designated so that she could attend the yearly legal class on Hot Topics in Land Use Practices on July 27th for \$30.00 in accordance with her Training/Conference Plan. A motion was made by Joe Iadarola, seconded by Brad Pellisser and unanimously voted to allow Mrs. Carson to attend.

IX. MINUTES APPROVAL

It was the consensus of the Commission to ask for a review of the tape of the June 28th meeting in order to see if there were any comments by Mr. Wysocki which were left out of the minutes and need to be added in.

A motion was made by Brad Pellissier, seconded by Greg Genlot and unanimously voted to approve the minutes of the June 14, 2007 meeting as written.

X. ADJOURNMENT

A motion was made by Cliff Bordeaux, seconded by Greg Genlot and unanimously voted to adjourn the July 19, 2007 Planning Commission meeting at 11:53 p.m.

Respectfully submitted,

Brad Pellissier, Secretary

Robin Timmons, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.