

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

**PLANNING MINUTES
REGULAR MEETING
FEBRUARY 11, 2010
TOWN HALL – 7:00 pm**

I. CALL TO ORDER:

Chairman B. Pellissier called the regular meeting of the Planning Commission to order at 7:03 pm. Members C. Bordeaux, T. Clark, G. Genlot, W. Salka, and S. Sutter were present and constituted a quorum. Chairman Pellisier seated alternate member, T. Caravella, for G. Genlot, who then arrived at 7:09. Also present: B. Cafarelli, Town Engineer.

II. PUBLIC HEARING:

a. Resubdivision Application #410, 2-Lots, 40 Bailey Lane, Richard Leno

Mr. Pellissier opened the Public Hearing asking for input from the public in attendance. Attorney John Parks, spoke on behalf of Richard Leno. He outlined the application for resubdivision as having sprung from an error in the original Wetlands delineation in 2005, discovered by the owner. The owner, Mr. Leno hired a 2nd soil scientist in 2009 who determined a substantial error in the original mapping, and that the site could support 1 more building lot. Hence, Mr. Leno's Resubdivision application.

Mr. Parks raised a second item of the application, the Open Space fee. He stated that the original site (60.4 acres) had already been assessed an Open Space fee. Mr. Parks requested the Commission waive the Open Space fee on the lots (7.05 acres) under consideration, as the fee had been previously paid. He felt the application of an Open Space fee on the resubdivided lots was not supported by Town statutes or Planning regulations. Mr. Parks submitted Market Value appraisals on the original site dated 8/11/2006 and for the lots under consideration dated 2/08/2010.

Mr. Pellissier asked for comments or questions from the public. Homeowner, Heather Upchurch, 45 Bailey Lane addressed the Commission. She stated that she owned the property directly across from 40 Bailey Lane, purchased in July of 2009. She stated that at the time of purchase, she was told that the land was protected Wetlands area and unbuildable. She additionally had not been made aware of the error in the original Wetlands delineation. Mrs. Upchurch asked that the Commission deny Mr. Leno's application.

Bob Simons, homeowner, 49 Bailey Lane also addressed the Commission. He stated his purchase was in part based on the original subdivision Map, of 23 lots, not 24 which also outlined the Wetlands and these 2 lots as non-buildable lots. He also requested the Commission deny Mr. Leno's application and uphold the original Map.

Scott McCarthy, homeowner, 61 Bailey Lane also stated his purchase as based in large part on the original Wetlands designation and questioned the commonality of a developer's ability to change development plans. Mr. Pellissier responded that yes, it is common with subdivisions. He added that

the landowner (Mr. Leno) has the right to utilize his asset to his own interest. Mr. Pellissier explained to the audience that the Planning Commission's authority goes only to whether an application meets Town Planning regulations. Mr. Pellissier then asked for any additional comments from the audience.

Mr. Cafarelli then read the Legal Notice to this Public Hearing for the record.

Mr. Cafarelli presented to Commission members memos from: Steve Jacobs, Town Registered Sanitarian, WPCA Authority; David Askew, Town Wetland & Erosion Control Agent, Conservation Commission, and John Collins, Town Building Official, Zoning Commission. In all cases, each Town official stated that this Application complies with individual Commission guidelines and regulations. Mr. Cafarelli, as Town Engineer, also presented his own memo dated 2/11/2010, to the Commission summarizing these memos and his opinion that the revised Resubdivision Plan meets all of the requirements of the Town's Subdivision rules and regulations.

Mr. Pellissier asked Commission members for comments regarding the Application. Mr. Sutter questioned the Open Space fee formula. Mr. Genlot explained it to be 10% of the total appraised value of the land divided by the number of the lots.

Mr. Pellissier suggested the Commission temporarily table The Public Hearing portion of tonight's meeting so that Mr. Leno could retrieve the return receipts for the hearing notification to the abutters from his home, so that the Commission can vote on his application.

A motion was made by Mr. Salka to temporarily table this discussion until Mr. Leno's return to the meeting; seconded by Mr. Clark, and then voted unanimously by members as approved.

Upon Mr. Leno's return to the meeting, the Commission members re-addressed Mr. Leno's Application. Mr. Pellissier re-opened by asking for public and Commission members' final input.

A short discussion of the lots as affordable housing ensued. Mr. Parks assured the Commission that the Application will not be construed as Affordable Housing, nor were they seeking that designation.

Mr. Pellissier asked members for comments regarding the Open Space fee. He stated that it has been the Town's practice to assess and collect the fee on new resubdivision applications. Mr. Bordeaux agreed and felt the Commission should remain consistent with that policy.

A motion was made by Mr. Bordeaux to approved Richard Leon's 2-lot subdivision, application #410, in accordance with the plans known as "Resubdivision Plan, Lot 12 #40 Bailey Lane, Prepared for KRL Builders, Somers, Conn.: dated 11-18-09, revised 12-22-09 and 2-8-10 with the following conditions:

- 1. A fee in lieu of open space shall be paid to the Town in the amount equal to ten percent (10%) of the appraised value of the property as determined by Stewart Appraisal (\$167,000.). The fee will be split equally between the 2 lots and paid to the Town of Somers upon the sale or transfer of each lot.
The Town of Somers shall also place a notice on the land records to insure payment.*
- 2. The fee for the appraisal for open space shall be paid in full and proof of payment shall be submitted to the planning office.*
- 3. The signatures of the Town Engineer and Town Sanitarian shall be on the plans signifying their approval of the plans in accordance with Section 213-19 of the Subdivision Regulations.*

4. *All appropriate seals and signatures of the designated professionals for this plan shall be on the plans.*
5. *All proposed iron pins and monuments are to be set prior to the issuance of a Certificate of Occupancy.*

The motion, with conditions as stated was seconded by Mr. Salka, and then voted unanimously by members as approved.

III. OLD BUSINESS:

a. Resubdivision Application #410, 2-Lots, 40 Bailey Lane, Richard Leno

See Section II, Public Hearing.

b. Approval of Roads: Harvest Hill Drive, Bobolink Lane, Barn Swallow Drive, Aspen Ridge

Mr. Cafarelli first discussed **Aspen Ridge**. He stated that the deed has been submitted and is in order, street monuments are in place. He added that once the road is accepted, a maintenance bond will be required.

A motion was made by Mr. Bordeaux to recommend acceptance of Aspen Ridge to the Board of Selectmen with the following conditions:

1. *A Maintenance Bond in the amount of \$188,000 be given to the Town in a form acceptable to the Town Counsel*
2. *The drainage system shall be cleaned during the Spring of 2010*
3. *A warranty deed acceptable to the Town Counsel shall be filed conveying any interests in the land that is to be acquired by the Town. Appropriate certificates of title must accompany the deed.*

The motion, with conditions as stated was seconded by Mr. Clark, and then voted unanimously by members as approved.

Mr. Cafarelli then addressed **Harvest Hill Road**. The deed has been submitted to the Town. He mentioned that whereas the bond has expired, he inspected the road and found it to be in good condition.

A motion was made by Mr. Genlot to recommend acceptance of Harvest Hill Road to the Board of Selectmen with the following condition:

1. *A warranty deed acceptable to the Town Counsel shall be filed conveying any interests in the land that is to be acquired by the Town. Appropriate certificates of title must accompany the deed.*

The motion, conditioned as stated was seconded by Mr. Clark, and then voted unanimously by members as approved.

On **Applewood and Brittany Lane**, Mr. Cafarelli stated no deeds have been submitted, no bonds are in place. These roads will be addressed further at the next Planning Commission meeting in March of 2010.

IV. NEW BUSINESS:

None.

V. OPPORTUNITY FOR COMMISSIONERS TO ADD AGENDA ITEMS:

No Agenda items were discussed or added.

VI. STAFF/COMMISSIONER REPORTS:

Mr. Cafarelli simply informed the Commission members of the upcoming 2010 State Planning and Zoning Conference to be held in Southington, CT.

VII. AUDIENCE PARTICIPATION:

None.

VIII. CORRESPONDENCE AND BILLS:

No correspondence or bills were presented.

IX. MINUTES APPROVAL: (1/28/10):

Mr. Pellissier asked the members for comments on the 1/28/10 Minutes. No comments or questions were put forth.

A motion was made by Mr. Genlot to approve the 1/28/10 Minutes as written; seconded by Mr. Caravella, and was unanimously approved.

X. ADJOURNMENT:

A motion was made by Mr. Salka to adjourn; seconded by Mr. Caravella, and unanimously voted to adjourn the February 11, 2010 Regular Meeting of the Planning Commission at 8:14 pm.

Respectfully submitted,

William Salka, Secretary

Kimberly E. Dombek, Recording Secretary