

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

**ZONING MINUTES
REGULAR MEETING
MARCH 17, 2008
TOWN HALL - 7:00 p.m.**

I. PUBLIC HEARING

a. Application for Zone Change from A-1 to I, 225 & 251 Field Road, Smyth & Avery

Chairman Rob Martin called the public hearing to order at 7:02 p.m. The legal notice was read.

Atty. John Parks spoke on behalf of Robert Smyth. Smyth's property is zoned partly for industrial use and partly residential. Both applicants are requesting that their entire properties be rezoned as industrial. Atty. Parks presented a concept plan that showed the current plan for Smyth's property. Currently, Smyth's Auto Body and two other buildings are on the industrially zoned area of the property.

The application was referred to the Planning Commission for their meeting of January 10, 2008. The Planning Commission recommended voting in favor of the application, finding that it was in keeping with the Plan of Conservation and Development's recommendation to have Zoning lines conform to property lines and further in keeping with the Plan of Conservation and Development's intention to expand industrial and commercial opportunities in the Community.

Atty. Parks explained that when the zone lines don't conform to the property lines it makes use of the property, particularly development, difficult. Currently, only 2% of the town of Somers is zoned for commercial or industrial business. By extending the current industrial-zoned areas the Town can avoid spot zoning. He gave examples of seven other properties that had similar zoning/property line issues where the zoning was changed to conform to the property lines.

Atty. Parks discussed a letter and photographs sent by Mr. Cox that are on file. He said that the photos and descriptions are misleading. Some of the photos are of Conval and Conval is not on the Smyth property.

Mike Mocko discussed the berm and addressed neighbors' issues with the concept plan. The visual nuisance would be handled by creating a berm 10 feet high, 45 feet wide at the base, and 5 foot wide at its peak. A 20-foot buffer of undisturbed trees would remain and the berm would be landscaped. Mr. Mocko pointed out that the berm also buffers noise. Furthermore, the business (noise) part of the operation would occur 20 feet below the top of the berm. The side of the building facing the berm would be below grade with only a 6-foot wall showing. Lighting would be directed down by installing cut-off floodlights facing the building.

He displayed a map showing neighboring properties and tree lines. He also presented another drawing that showed lines-of-sight from ground level, from a first floor window and from a second floor window. An aerial photo with a transparency was also presented, however it was later pointed out that the photo was 3 years old and did not show the current tree line.

Jason Avery spoke on his own behalf, stating that he purchased the land 2 years ago and currently has no plans for development. However, he would like his entire parcel to be zoned for industrial use. He would intend to have a similar natural appearing buffer to screen any business use from the residential neighbors.

The hearing was opened to questions.

Q: Would the tree line be cut back? Ans: Trees would be taken down to allow creation of the berm.

Q: What type of business will go into the area? Ans: Unknown. At this time nothing is proposed.

Q: From start to finish how long will construction take? Ans: Three years is the best guess at this time.

Q: Is the plan before the hearing now a fixed and approved plan? Ans: No.

Q: Then could the plan change? Ans: Yes; it depends on who will rent the property.

Q: How would pollutants from the industrial site effect ground water and water in wells? Ans: Environment laws regarding water pollution are strict. There is a comprehensive plan for the storm water drainage. All cleaners and solvents must have a manifest description for disposal. Delivery truck mishaps would be handled by protective storm water systems, which have emergency caps with sponges and oil booms on hand. The property would have its own on-site septic system and on-site well that would be no worse than a residence.

Q: How many mature pine trees can grow in a 20-foot buffer zone. Ans: They would be 10' to 20' apart.

Q: How can the applicants make noise predictions if they don't know what kind of business will be going in? How will the access on Billings Road be used? Ans: There will be a gated emergency access with a lock box for police and the fire department.

Q: Is Atty. Parks acting as Conval's attorney? This citizen had problems with the noise and visuals from Conval and believed that there was a discrepancy with lines as presented on the concept plan. Ans: No; Conval was not being represented by Atty. Parks and Mr. Mocko would check with a surveyor regarding a possible discrepancy with the zoning line.

Q: What is the highest building allowed in Somers? Ans: 40 feet.

Q: Could a 40-foot building be built on the property? Ans: Yes; but if it could not be screened it would not be approved.

Q: Is it not possible that the 20-foot tree buffer could be destroyed with one ice storm? Ans: There would be 20 feet of undisturbed buffer, but it would be 80 feet to the building.

Q: Why should the residential owners loose home values?

Mr. Martin asked for Public Comments beginning with those in favor of the change of zone:

Frank Siver, 42 Whisper Woods Drive, and owner of Conval, feels that it makes sense for the property to be zoned entirely as industrial. As an abutter, he is in favor of the change of zone to industrial use. He added that he would probably not be renting or purchasing the property.

Lise Wood, 223 Wood Road, approves of the zoning change citing that it is in keeping with the plan of conservation and development and that the Town needs more business property.

Mr. Martin asked for Public Comments against the change of zone:

John Cowles, 26 Lindell Drive, presented a petition from 24 abutters within 500 feet of the property in question. He stated that people bought their homes with the knowledge that the property next to them was in a residential zone. He felt there was wisdom in the original plan with respect to the residential buffer zone next to the industrial zone. If compressors are placed in back, the noise would be a problem for the neighbors. Mr. Cowles said that he has a problem with the "beacon" shining directly onto his house from the Smyth property and that it is in violation of current regulations. Mr. Cowles presented photos of unsightly industrial buildings that can be seen from his property. He also presented an aerial photo of the Smyth property littered with pipes, junk cars and showing a stripped area that he claimed has remained untouched for 6 years. Mr. Cowles stated that the abutting properties stand to lose 20% of their property values if this issue is mishandled.

Jeffrey Sizer, 110 Partridge Run, pointed out that once the property is no longer residential they will have no control over what happens there and that he bought because of the reassurance that this was residentially zoned. He is concerned that more lighting will be required for security. He also showed photos of unsightly industrial areas viewed from the residential properties.

Roland Fawthrop, 51 Horseshoe Lane, provided photos of clear-cutting on the property and stated that a wetlands area is right behind the property in question. He has concerns regarding the effects of the change in zoning to his property value.

Jane Legg, 13 Lindell Drive, has complained to Bob Smyth and the Zoning Enforcement Officer regarding the lighting pollution and fumes from the property. As a former Public Health Nurse, she has concerns regarding metal contaminants from the site entering her drinking water and gets her well checked every year.

Mike Leale, 39 Lindell Drive, said he came to Somers from New York City and treasures the country life. He has concerns that he may lose this if the zoning is changed. He is also concerned about the nearby wetlands and his property value.

Pete Southwick, 431 Billings Road, has filed many complaints on the Smyth property that have not been addressed. He believes that things would only get worse with a zone change.

Angela Koehler, 43 Sunshine Farms Drive, said she had concerns about the junk cars, the buffer that has

been clear-cut and a business on the site with a garden hose running to a storm drain. She wanted to know if the hours of operation would be regulated. She has concerns about the lights and does not believe that a 25-foot buffer is sufficient and would prefer at least 40 feet.

Robert Cox, 19 Lindell Drive, can see the Smyth building from his kitchen window. He presented pictures of Conval, propane tanks and dirt mounds. He complained of the noise from Conval.

Bob Clark, 25 Lindell Drive, stated that he worked in the chemical industry and can smell solvents from the neighboring businesses. He believes that there should be at least 500 feet from the industrial building to the residences. The proposed building would only be 100 feet away.

Richard Navikonis, 385 Billings Road, has Conval's conceptual drawing from 20 years ago showing where the zone line actually is. He asked the Commission to consider the position of the residential owners.

Vincent Braica, 41 Horseshoe Lane, spoke in support of the property owners against the zoning change.

John Grabowski, 16 Lindell Dr, supports the homeowners and does not know why we would want industrial things in his neighborhood and he wanted to know "what's the point?"

David Turley, 47 Partridge Run, read the zoning guidelines and felt the proposal is not addressing the environmental concerns.

Ms. Carson went through the file for the record. Besides the evidence presented at this evening's public hearing, there was a letter and petition received from Jane Legg on March 14th. A letter with photographs from Robert Cox was received on March 9th. Also in the record is the referral from the Planning Commission from their meeting of January 10, 2008 recommending approval of the proposal.

Atty. Parks encouraged balancing the rights of residential and industrial property owners. He recognized the concerns about seeing and hearing the industrial zone and he stated that these concerns would be better addressed at the planning stage when the actual uses and buildings were applied for. Mr. Mocko further reiterated the visual and sound screening aspects of the buffers and elaborated on the ground water protection plans.

The Commission discussed having a walking tour of the properties and worked out the details of how and when it would happen.

A motion was made by Dan Fraro, seconded by Jill Conklin and unanimously voted to continue the public hearing to Monday, April 7, 2008 at 7:00 pm.

II. CALL TO ORDER

Chairman Rob Martin called the regular meeting of the Zoning Commission to order at 9:00 p.m. Members Jill Conklin, Dan Fraro and Rob Martin were present and constituted a quorum. Town Planner

Patrice Carson was also present.

III. MINUTES APPROVAL: January 23, 2008 & March 3, 2008

The minutes of January 23, 2008 required the following correction: Change the year from 2007 to 2008. A motion was made by Jill Conklin, seconded by Dan Fraro and unanimously voted to approve the minutes of the January 23, 2008 meeting as amended.

Action on the March 3, 2008 minutes was deferred until the next meeting.

IV. INTERVIEW DESIGN REVIEW BOARD CANDIDATES – There were none.

V. OLD BUSINESS

a. Discussion/Possible Decision: Zoning Commission's Proposed Amendments to the Zoning Regulations for Outdoor Wood Burning Furnaces

Ms. Carson said that she had discussed an OWBF regulation with Brett Stoddard, the new Building Inspector. His concerns regarded his ability to determine: stack height, and how close within 500 feet of another residence the OWBF would be, and how he could enforce this portion of a regulation. The feasibility of having the DEP do the enforcing and providing guidance in set-up was discussed.

Ms. Conklin stated that she still had reservations about the OWBF's and said that she would not want one next to her home. She would like to see the report of the findings of the Legislative Hearing held March 7 on the devices before making her decision. Rob Martin stated that here in Somers there have been very few complaints about them.

Ms. Carson said she would try and get a copy of the legislative discussion and draft a sample zoning regulation and submit it to the Zoning Commission.

b. Discussion/Possible Decision: Application for Zone Change from A-1 to I, 225 & 251 Field Road, Smyth & Avery

Since the public hearing was continued, this discussion was deferred.

c. Other – There was no other Old Business.

VI. NEW BUSINESS

a. Application for Renewal of Special Use Permit for Flea Markets & Auctions, 430 South Road, Pleasant View Farms Realty

An application was received for the annual renewal of a Special Use Permit for Flea Markets, Auctions and Music Festivals at 430 South Road.

A motion was made by Jill Conklin, seconded by Dan Fraro and unanimously voted to accept the application, set the Public Hearing date for April 7, 2008 at 7:00 pm for Pleasant View Farms Realty's application for renewal of special use permit for flea markets & auctions at 430 South Road, and refer it to the Planning Commission.

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b. Other – There was no other New Business.

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VII. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT

a. Ridgeline Regulations – Review Draft

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This discussion was deferred.

VIII. STAFF/COMMISSIONER REPORTS – None were presented.

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IX. CORRESPONDENCE AND BILLS

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The following bill was presented for payment:

CT Federation of P&Z Agencies (membership dues through 3/31/09) \$62.96

A motion was made by Dan Fraro, seconded by Jill Conklin and unanimously voted to pay the bill.

X. ADJOURNMENT

A motion was made by Jill Conklin, seconded by Dan Fraro and unanimously voted to adjourn the March 17, 2008 Zoning Commission meeting at 9:30 p.m.

Respectfully submitted,

Wesley Smith
Commission Secretary

Jeanne Reed
Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.