

TOWN OF SOMERS
ZONING COMMISSION
PO BOX 308
SOMERS, CONNECTICUT 06071

ZONING MINUTES
REGULAR MEETING
JULY 27, 2009
TOWN HALL – 7:00 pm

I. PUBLIC HEARING:

- a. **CONTINUATION: PROPOSAL TO SETTLE A LAWSUIT: ROBERT SMYTH, ET AL Vs. SOMERS ZONING COMMISSION DOCKET #CV08-4009357S PENDING IN TOLLAND SUPERIOR COURT REGARDING ZONE CHANGE APPLICATION (PREVIOUSLY DENIED BY THE ZONING COMMISSION) FOR THE PROPERTIES AT 225 FIELD ROAD (MAP 02 BLOCK 50) & 251 FIELD ROAD (MAP 02 BLOCK 44 LOT 03)**

Chairman Martin opened the Public Hearing at 7:04 pm and the legal notice was read.

Town Attorney Landolina of Fahey, Landolina Attorneys LLC updated the Commission on what has happened since the last Public Hearing. The matter with the court appeal by both John Cowles and Jane Legg continues. To that lawsuit, Attorney Parks had filed some motions asking the court to reconsider their application to appeal. Attorney Parks' motions have been denied, so at this point Mr. Cowles and Ms. Legg are parties to the appeal and they have standing. Attorney Parks has filed additional motions that have not been argued, but have been challenged by Mr. Cowles and Ms. Legg. There may be some time before those additional motions are decided. In the interim though, they are parties to the lawsuit and have a standing. Attorney Landolina discussed with Mr. Cowles whether or not he agreed in principle to the items contained in our proposed stipulation, as were presented for the record last time. Mr. Cowles did not. He had some additional conditions he would like to see as part of the stipulation. Attorney Parks' clients have indicated their unwillingness to abide by any of those conditions. So given, the Town of Somers cannot settle the lawsuit with those concerned until all the parties are in agreement as to what the settlement contains. Attorney Landolina recommended that the Zoning Commission withdraw the offer to settle with Attorney Parks' clients, close the public hearing and let the case continue on. Attorney Landolina added that he talked with Mr. Cowles about joining in the court ordered mediation. He has indicated the willingness to at least join that process. Mr. Cowles, Ms Legg and Attorney Parks' clients would have input with the mediator and discuss perhaps possible resolutions. But, until either Mr. Cowles and Ms. Legg are no longer part of the lawsuit or we have an agreement of all the parties, there is nothing more to do at this point.

No one else offered to speak. A motion by Ms Rasid and seconded by Ms. Conklin and unanimously voted to end the Public Hearing was made at 7:09pm

II. CALL TO ORDER:

Chairman Rob Martin called the regular meeting of the Zoning Commission to order at 7:10pm. Members, Jill Conklin, Rob Martin, Dan Fraro and alternate member Paige Rasid (seated for Ray Hafford) were present and constituted a quorum. Also present: Building Inspector John Collins.

A motion was made by Ms Conklin and seconded by Mr. Fraro to take the Agenda out of order, to discuss #IV a-Old Business. Motion unanimously carried.

IV. OLD BUSINESS:

a. DISCUSSION/POSSIBLE DECISION: PROPOSAL TO SETTLE A LAWSUIT: ROBERT SMYTH, ET AL Vs. SOMERS ZONING COMMISSION DOCKET #CV08-4009357S PENDING IN TOLLAND SUPERIOR COURT REGARDING ZONE CHANGE APPLICATION (PREVIOUSLY DENIED BY THE ZONING COMMISSION) FOR THE PROPERTIES AT 225 FIELD ROAD (MAP 02 BLOCK 50) & 251 FIELD ROAD (MAP 02 BLOCK 44 LOT 03)

Attorney Landolina spoke to the Zoning Commission that based on what was discussed at the Public Hearing portion this evening that the Commission considers withdrawing the offer to settle the lawsuit between Robert Smyth Et Al and the Town of Somers at this time.

A motion was made by Mr. Fraro and seconded by Ms. Conklin that the offer to enter into a Stipulated Judgment with the Plaintiff be withdrawn. The motion was unanimously carried.

III. MINUTES APPROVAL: June 15, 2009

A motion was made by Ms. Conklin and seconded by Ms Rasid for the reading and approval of the June 15, 2009 meeting minutes be tabled until the next Regular Zoning Meeting scheduled for September 14, 2009.

V. NEW BUSINESS

a. DISCUSSION OF STAFF PERFORMANCE OF ZONING ENFORCEMENT FUNCTIONS

A motion was made by Ms. Rasid and seconded by Ms. Conklin to invite 1st Selectman David Pinney to participate in the meeting. The motion was carried.

Mr. Pinney stated that acting within the Zoning Regulations, interpretation, enactment and enforcement was the sole responsibility of the Zoning Commission. The Commission could then delegate those duties to staff. The former Planner took on most of those duties. With the elimination of the position, John Collins would have the dual function as the Zoning/Building Inspector, Dave Askew – Wetlands, Steve Jacobs – Sanitarian and Bob Cafarelli as Engineer/Planner. Decisions would be made as to what could be handled in house. Mr. Collins will oversee the initial applications through completion. Where necessary the Commission would become involved. Planning & Zoning notes will be consolidated and placed in individual property files and kept in a central location.

With regards to the Zoning Enforcer Officer, Linda Kieft-Robitaille works two hours, one day a week. The commission raised concerns with enforcement. The ZEO does handle what is given to her but is there enough time to enforce the regulations? Mr. Pinney has mentioned the possibility of working an extra day. Ms Kieft-Robitaille has not committed at this time

1. Is there a complaint history kept on properties?
2. How are allegations of infractions handled?
3. Should they be anonymous or written?
4. Should the homeowner be notified
5. It is noted that some businesses are not abiding by the Zoning Regulations
6. There needs to be a level of pro-activity in seeking infractions to abate
7. The ZEO needs to drive around town
8. Raise awareness of the public that Zoning Regulations will be enforced

In the past the Zoning commission received a detailed log of the ZEO's activity. That has dropped off. This log would go a long way in keeping the Commission up to date with what is happening around Town

VI. DISCUSSION: PLAN OF CONSERVATION & DEVELOPMENT

a. RIDGELINE REGULATIONS

John Collins presented a review of Proposed Ridgeline Regulations completed by Linda Kieft-Robitaille, ZEO with comments from Joe Voboril, Forester for the Zoning Commission to consider. Mr. Collins will insert language for the next meeting and address defining Regulations/Restrictions on how many trees can be removed from a property.

VII. STAFF/COMMISSIONER REPORTS

There were no reports submitted.

VIII. CORRESPONDENCE AND BILLS

John Collins commented that a JI Legal Notice was sent to the Treasurers Office for payment. The Commission in the past reviewed every bill before payment. Discussion took place as to whether some bills could be paid directly without approval first. Is there a possibility of a budget report to be generated for the Commission's review?

VI. ADJOURNMENT

A motion was made by Ms. Conklin and seconded by Ms. Rasid and unanimously voted to adjourn the July 27, 2009 meeting of the Zoning Commission at 8:35pm

Respectfully submitted,

Robert Martin, Chairman

Donna E. Hanks, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.

