

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

**ZONING MINUTES
SPECIAL MEETING
AUGUST 23, 2010
TOWN HALL – 7:00 p.m.**

I. CALL TO ORDER:

Chair Jill Conklin called the regular meeting of the Zoning Commission to order at 7:00 pm. Members: Dan Fraro, Robert Martin, and alternate member Paige Rasid seated for Karl Walton, were present and constituted a quorum. Also present: John Collins, Zoning Liaison, Lisa Pellegrini, First Selectman, Karl Landolina, Town Attorney, Glen Chalder, Planimetrics and a number of interested citizens.

II. PUBLIC HEARING

a. Application by George C. Schober, Attorney at Law, 352 Billings Road, Somers, CT 06071 for a text amendment to the Town of Somers Zoning Regulations to create a Housing Opportunity Development Zone which will permit affordable housing development.

Chair Jill Conklin opened the Public Hearing at 7:01 pm. She introduced the individual members of the Zoning Commission, the Town Attorney, and Mr. Glen Chalder, of Planimetrics to all those in attendance. Ms. Conklin then read the Legal Notice of this Public Hearing into the record. She then asked George Schober, attorney for the Applicant to come forward and present his proposal to the Commission.

Attorney Schober introduced his clients, Bob Smith and Jason Avery, interested property owners. He summarized their interest in developing their 6-7 acre lot, on Field Road and Billings Road, as an affordable housing development. To that end, Mr. Schober drafted a Text Amendment to the Town of Somers' Zoning regulations, which was previously delivered to both the Zoning and Planning Commission members for review. He explained that he used a Text Amendment from the Town of East Hampton, CT as a starting point. He also referenced copies of a letter from the Capital Region Council of Governments, members had received, which stated the proposal is in harmony with a housing goal of the 2009 Regional Plan to increase affordable housing.

Attorney Schober stated that the Town does not meet the State mandate of 10% of housing units considered as affordable housing. As such, the Town has been put on the State's Non-Exempt list. He outlined the developers' plan of building 40 units, condominiums, duplex housing, with an option to rent. 30% of the units would be designated as affordable housing. Therefore, 12 units as affordable, 28 units at market-rate, projected prices: 6 units approximately \$175,000; 6 units approximately \$233,000; with the balance of units at market rate prices.

He assured the Commission that construction would be substantially similar, sizes and outside materials used the same. The affordable units would be interspersed among the development. He added that the site has public water and good soil, ideally suited for a sewer system. He also stated his belief that the developer would be able to meet all Health & Safety regulations of the site's residents.

Attorney Schober explained that the units set aside as affordable housing would be deed restricted for 40 years. He suggested appointing the Somers Housing Authority to monitor sales and re-sales of these units. He finished by mentioning that the Public Hearing has 35 days to close, and asked the Commission for an extension to keep it open. This would allow the developer to return with site-specific Plans. He then asked members for any questions.

Town Attorney, Karl Landolina, stated Attorney Schober neglected to address the actual Text Amendment. He also asked that Mr. Schober comment on Glen Chalder's report.

Attorney Schober responded that the Text Amendment speaks for itself and sees no benefit in reviewing it "line by line". He stated that Mr. Chalder's report was not relevant. Attorney Schober was focused on their ability to meet Health & Safety regulations and current law.

Attorney Landolina asked about the owners' apparent desire to also develop an adjacent site, which is currently zoned Industrial. Attorney Schober explained this parcel to be currently in litigation. The owners are attempting to recoup litigation costs. This industrial parcel has de-valued the overall property. He said the litigation is on-going, and if successful, the lot will be re-zoned.

Attorney Landolina stated the current application, without site-specific plans, does not meet Affordable Housing standards. He also pointed out the lack of an Affordability Plan, which is another missing component of the application. Therefore the traditional Zoning regulations, without modification, would remain in place. He added that the Zoning Commission has both the discretion and authority to modify or to deny modification to the current Zoning regulations.

Attorney Schober stated their intent to return with site-specific plans. He added that the Text Amendment meets the needs of their proposed development, and because of its broader definition and scope, could also be used by the Town for similar affordable housing development.

Glen Chalder, AICP, President of Planimetrics, addressed all present, stating his opinion that the Text Amendment is not ready for adoption. He added that without a site-specific plan, the Commission doesn't have the ability to review and/or change the proposed Text Amendment. Mr. Chalder also mentioned the following concerns, which were included in his report: density standards, set-back provisions, and building height limitations. He summarized by questioning the lack of information... why is the Text Amendment drafted in the absence of a site-specific plan.

Attorney Schober responded that the Text Amendment was based a conceptual plan reviewed by the developers, their engineer and surveyor.

Chair Jill Conklin then asked for any citizen, interested in speaking, who is in favor of the application, to please come forward and address the Commission. None came forth.

Ms. Jill Conklin then asked for any citizen, interested in speaking, who is opposed to the application, to please come forward and address the Commission.

Edward Fedorowich, Stafford Road. Mr. Fedorowich reminded members of the sewer failure at Maple Ridge. He also mentioned his concern of pollution tainting the aquifer.

George Roberts, 8 Autumn Lane. Mr. Roberts questioned the possibility of units being rentals. He stated they should be owner occupied. He questioned road maintenance. He also was concerned about density on a 6-7 acre development.

Daniel Thayer, 10 Poten Road. Mr. Thayer stated his opinion that the application does not meet requirements and the applicant was too focused on litigation should the Zoning Commission deny the application.

Eva Brawn, 125 Watch Hill Road. Ms. Brawn said the application does not seem to meet affordable housing definition, and the Commission should focus only on the Text Amendment. Her concerns for the Town included: the aquifer, water shed lands, and density.

David Pinney, Chairman, Somers Housing Authority. Mr. Pinney agreed that the application as is does not meet affordable housing standards. He added that without specific plans and additional information, what can the Commission hope to accomplish tonight? Attorney Landolina responded that the Commission could adopt/re-draft umbrella regulations for affordable housing. He said currently the only affordable housing in Somers is for elderly or disabled. He encouraged the Commission for a commitment to affordable housing, if not this proposal, then others in the future.

Katherine Marshak, 54 Springfield Road. Ms. Marshak questioned whether the proposed change in regulations would apply only to affordable housing. She asked what the Conservation Commission's response to this application was. Ms. Conklin responded she was unaware, and suggested Ms. Marshak contact the Conservation Commission. Ms. Marshak finished by stating that if regulations are changed, this would open the door to other developers, which could negatively impact the Town.

Tom Clark, Mountain Road. Mr. Clark asked whether the applicant could change his application from affordable housing to low-income housing? Attorney Landolina responded that different rules would apply. Mr. Clark asked whether the developer would have the ability to sell all units as affordable housing, (i.e. continued bad real estate market). Attorney Landolina said yes, although it would require a modification to the Plan, and a return to the Zoning Commission for approval.

Edward Fedorowich, Stafford Road. Mr. Fedorowich re-addressed the members with his additional concern that the developer would have no responsibility regarding infra-structure improvements, (i.e. road widening, drainage), and the Town would have to do these things. He added that this application is incomplete, and asked the Commission to reject this application.

Tracy Deck, Billings Road. Ms. Deck is the abutting property homeowner. She pointed out that the applicant had already re-zoned from residential to industrial. She added her concerns with water and sewer needs.

John Hols, 26 Lidell Road. Mr. Hols submitted his letter to the Commission in support of Housing Opportunity Development Zone, in general. His opposition to the application stems from a negative impression and previous experience with Attorney Schober and Mr. Smith and Mr. Avery and their general opposition to mediate litigation. Specific concerns, Mr. Hols cited, included: impervious coverage, set-backs, and lighting.

Carol Pyne, 46 Sunset Drive. Ms. Payne cited a Town survey that indicated a majority would not be in favor of condominiums/apartments. She was concerned with the increased population, in relation to:

the question of a need for bus transportation, which doesn't currently exist; a lack of full-time police coverage; and the limited assets of the Town's Volunteer Fire Department.

Ms. Conklin asked for any additional comments from the audience. None were brought forth. Attorney Landolina then addressed Mr. Chalder to elaborate on specific areas of the application which are not workable. Mr. Chalder responded that while portions are appropriate, his primary concern was that of timing. He explained that with the closing of the Public Hearing, the Commission would essentially be losing review time. Mr. Landolina agreed, added that the applicant might not have site-specific plans and the Affordability Plan in a timely manner. He added that normally the 65 days prior to the Public Hearing is usually review time for the Commission. Mr. Chalder stated that he would also recommend members receive input and comments from other Town professionals, such as Fire Chief, Town Sanitarian, Town Engineer, etc.

Ms. Conklin asked for any additional comments from the audience.

Edward Fedorowich, Stafford Road. Mr. Fedorowich again asked the Commission to reject the application.

Attorney Schober asked for a 5 minute break so he could confer with his clients. Ms. Conklin agreed and closed the Public Hearing temporarily at 8:45 pm.

Ms. Conklin re-opened the Public Hearing at 8:51 pm.

Attorney Schober addressed the Commission, stating that Mr. Chalder had a good point on the time issue, and in deference to that, they would withdraw the application and return next month with a complete application, site-specific plans, Affordability Plan, and the Text Amendment, drafted solely for their project.

He also spoke to a few points raised by citizens. His clients are aware of the need to meet public Health & Safety regulations and will do so. He added the development will have separate septic & reserve; the Town will not have responsibility for. He stated the Town would have no responsibility for the road; which would be a private road. He explained that having the Housing Authority oversee the re-sales of the set aside units was only a suggestion. Attorney Schober finished by stating that a for-profit developer could not afford to build as 100% affordable housing, and there was no danger of that happening with this project.

Attorney Landolina asked Attorney Schober to submit his withdrawal of the application in writing tonight. Attorney Schober gave Ms. Conklin a written letter of withdrawal. Ms. Conklin received the letter for the record and closed the Public Hearing at 9:02 pm.

III. MINUTES APPROVAL (6/28/2010):

Ms. Conklin asked members for comments or changes to the 6/28/2010 Minutes. Ms. Rasid stated that, as she had not attended the 6/28/2010 Zoning Meeting, she could not vote on corresponding Minutes. Ms. Conklin then recommended tabling the 6/28/2010 Minutes' review and vote until the next regular Zoning Commission meeting.

IV. OLD BUSINESS:

a. Discussion/possible decision for:

Application by George C. Schober, Attorney at Law, 352 Billings Road, Somers, CT 06071 for a text amendment to the Town of Somers Zoning Regulations to create a Housing Opportunity Development Zone which will permit affordable housing development.

None – based upon the withdrawal of the above application during the Public Hearing.

V. NEW BUSINESS:

None

VI. DISCUSSION (Other):

None

VII. STAFF/COMMISSIONER REPORTS:

None.

VIII. CORRESPONDENCE AND BILLS:

None

IX. ADJOURNMENT:

A motion was made by Mr. Martin to adjourn; seconded by Mr. Fraro, and unanimously voted to adjourn the August 23, 2010 Special meeting of the Zoning Commission at 9:06 pm.

Respectfully submitted,

Daniel Fraro, Secretary

Kimberly E. Dombek, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.