

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

**ZONING MINUTES
SPECIAL MEETING
DECEMBER 10, 2007
7:00 pm TOWN HALL**

I. PUBLIC HEARING

**a. SPECIAL USE PERMIT APPLICATION FOR HORSES FOR COMMERCIAL PURPOSES,
SECTION 214-89.A., 20 PINNEY ROAD, LINDY FARMS**

Chairman Rob Martin called the public hearing to order at 7:08 pm. The legal notice was read.

John Belsky, 100 Maple Street, presented the application to build a structure at 20 Pinney Road. Mr. Belsky explained that they want to expand their horse farm in Somers. He displayed a map showing where the structure would be built.

Ms. Carson stated that the Planning Commission reviewed the application at their October 15, 2007 meeting and unanimously voted to recommend approval, citing that the proposed use was in keeping with the Plan of Conservation and Development and its open space objectives. This would be considered managed open space.

Chairman Martin opened the floor for public comment.

Concetta Jez, 135 Stebbins Road, favored the application and believes the applicant is single handedly beautifying Somers. She wanted to know how the Commission was leaning. Mr. Martin explained that the Commission considers the opinions expressed in the Public Hearing and votes on the application based upon those opinions and other criteria, but does not come to the hearing with a predetermined decision.

There was no other public comment on the application.

A motion was made by Jill Conklin, seconded by Dan Fraro and unanimously voted to close this portion of the public hearing at 7:14 pm.

**b. ZONING COMMISSION'S PROPOSED AMENDMENTS TO THE ZONING REGULATIONS
FOR OUTDOOR WOOD BURNING FURNACES (OWBF)**

Chairman Rob Martin explained that the Zoning Commission has been looking into OWBF's. There are four of these furnaces with legal permits in Somers at this time. The Commission has reviewed DEP information and regulations from other Town's regarding these furnaces. Before making a decision the

Commission would like to hear from the public. Mr. Martin stipulated that this was **not** about indoor wood stoves or indoor wood boilers, but **only** OWBF's.

At this time Mr. Martin opened the floor to those who were in favor of the ban.

Concetta Jez, 135 Stebbins Road, asked how the Commission was leaning and why. Mr. Martin explained that based on the DEP literature the Commission was considering banning the furnaces. According to the DEP, the furnaces are 3,000 to 8,000 times less efficient than a gas furnace and cause significant environmental and health concerns.

Kellie Turley, 47 Partridge Run, favored the ban but wanted to hear what people who had the furnaces feel are the benefits other than saving money. Her concerns are 1. the impact of the smoke on her asthma, 2. whether people intend to use the stoves year round, 3. the objectionable aesthetics of a big smokestack, 4. whether the OWBF's would be allowed in residential neighborhoods or only on properties with a minimum of 25 acres.

Robert Owens, 5 Pine Knob Road, spoke for the ban. He stated that his neighbor's furnace is costing him money. He explained that the furnace runs in the summer and creates so much smoke that he must keep his windows closed and run the air-conditioner. He presented photos of the smoke from the furnace and showed the Commission a video of the smoke in the summer on his camcorder. He said that one morning he and his wife awoke sick with their house full of smoke from the neighbor's OWBF. Since then the unit was moved 50 feet away and the stack elevation has been raised but he still sees much smoke emitting from it. Mr. Owens was frustrated that the Town could offer him no help because they did not have jurisdiction over the emissions.

At this time Mr. Martin opened the floor to those who opposed the ban.

Keith Pettee, 712 Stafford Road, feels that as long as hardwood is burned in the furnaces they are OK. What is burned in the furnaces should be regulated and if household garbage is burned the offender should be fined. He believes that no more smoke comes from the OWBF's than a regular woodstove and that the emissions are also about the same. He doesn't think raising the stack is a solution because the smoke still comes to the ground when the air is heavy.

Sam Smith, Grower Direct, Inc., 164 Hamden Road, said that Grower Direct has just begun looking into alternate sources of energy to heat their facilities. He asked that at least for agriculture, the door be left open for them to explore the alternative of a bio-mass burner. A discussion ensued as to whether a bio-mass burner would fall under the definition of an OWBF. Mr. Martin read the definition from Conn. Pub. Act. 05-227 aloud. He said that what the Commission was talking about tonight is a residential OWBF, which would not include the use Mr. Smith was describing.

James Cowan, 102 South Road, opposed the ban and was concerned that once the Commission bans OWBF's then woodstoves and fireplaces would be next.

Mical Smith, Grower Direct, Inc., 164 Hamden Road, spoke against the ban on the grounds that it is an

encroachment on personal liberties. She does not feel that the health hazards are conclusive and does not believe that furnaces should be regulated. People live with personal choices and this should fall under that. These devices can save people money and if the Commission is going to ban something that saves money then they need to provide another way to save money.

Fred Meyer, 681 Main Street, spoke against the ban. He believes that because one of the study materials said “pollution from wood burning” that the discussion cannot be viewed from an OWBF perspective. He believes therefore that stoves and inside boilers that burn wood will also be affected. He said the Commission needs to ban wood. He also contested the DEP’s claim that compared the furnaces to natural gas, since natural gas is not available in Somers. He took issue with the claim that emissions from OWBF’s are worse than woodstoves. He said he has been in the boiler business for 40 years and wood burns the same. He stated that the regulation could be written to require the units to be pollution free.

Christina Clark, 282 Turnpike Road, believes the stoves should be regulated but not banned. She would favor restriction in residential areas between houses and a ban on use in summer. She favors the use of wood as a renewable resource.

Pasquale Pio, 304 Turnpike Road, uses an OWBF to heat his barn. He believes the furnaces need to be regulated but thinks it is an effective way to heat. He had an article from the Journal Inquirer and introduced the writer of the article to speak.

Dan Griffin, 7 Hemlock Drive, Enfield, (article writer) stated that there is a particulate problem with burning wood that can aggravate asthma. He spoke from a global warming perspective saying that when a tree rots it gives off the same CO₂ as when it is burned. However, burning oil, gas and coal gives off new carbon that would otherwise be locked up forever. He said that rather than writing new regulations, the current regulations need to be enforced. Mr. Griffin is a mechanical engineer from the aerospace industry.

Gary Clark, 282 Turnpike Road, is against the ban but favors better restrictions.

Concetta Jez, 135 Stebbins Road, favors restrictions not a ban.

Linda DelGreco, 7 Florida Road, said she is the neighbor whose furnace caused the complaints. They installed the stove themselves and asked for DEP assistance. The DEP informed them of the need for a higher stack and that the furnace needed to be moved. These modifications were made. Ms. DelGreco stated that she has asthma which has been unaffected by their furnace, in fact her health has been improved since using the furnace.

John DelGreco, 7 Florida Road, said that when they installed the furnace themselves they were uninformed of the regulations on the devices. Unfortunately, their teenage boys put brush and leaves into the furnace one day last summer, which caused much smoke but the boys know not to do this now. The stack is now over 45 feet tall and tied in place by 6 guide wires, and they no longer see smoke coming from it. He said that he would be willing to cease using the furnace in the summer.

David Boomer of the Kowalsky Group LLC, Hartford, a government relations firm that represents Central Boiler, Inc. of Greenbush, MN, provided written testimony against the ban, which he summarized. Smoke is the only problem that people have with the furnaces. He said that when there are problems there is a mediation process that he urges the Town to use. If contacted, the DEP will come and enforce their regulations. If a person's health continues to be impacted they can take action requiring the furnace to be moved or shut down. The new OWBF models are cleaner and meet DEP guidelines. There are only a few of the 169 towns in Connecticut that have banned OWBF's.

Donald Guilbert, 666 Main Street, owns a furnace and does not think a stainless steel chimney and a tin shed are unsightly. His asthma is unaffected by the furnace. He said that burning thrash in the furnace will damage the \$10,000 to \$12,000 investment so people would not do that. He warned that if the furnaces are banned wood stoves are next.

Dan Tullock, 179 County Road, is concerned that the proposed ban is an overreaction. If the furnaces are controlled and regulated properly that should be enough. He does not think the furnaces should run in summer. However, he warned that if the OWBF's are banned next it will be wood stoves, then fireplaces because it is the same fuel.

Lucille Sawicki, 126 Stebbins Road, is against having the furnaces operating in summer. Her neighbor has a furnace that made her very sick in the summer. She explained that in the summer the smoke settles rather than dissipating in the air. Her neighbor corrected the problem as soon as they were notified and the furnace has not bothered her since. She is very concerned, however, about what would happen if her neighbor sold his house to someone less cooperative. She is concerned about her ability to enjoy her property if it is engulfed in smoke.

Bob McCalligett, 27 Huntington Drive, believes the furnaces should not be allowed to burn in the summer, but he opposes a complete ban. He endorsed the safety of the furnaces which are outside away from things over woodstoves which are indoors.

Roger Pease, 370 Ninth District Road, has an unpermitted OWBF and opposes a ban, but believes the furnaces should be regulated.

Donald Guilbert, 666 Main Street, approached the Commission again to say that the previous building inspectors had told some furnace owners that a permit was not needed for the furnaces. After losing one house in a fire from an oil burner, he chose to heat with an OWBF because of their safety.

Bob Pettee, 190 Springfield Road, has had an OWBF since 2003 and opposes the ban. He feels if air pollution is the concern, then aircraft and the space shuttle should be banned before Somers Zoning bans OWBF's. He believes a ban of the furnaces would infringe on his Constitutional Rights. He ceases operation of the furnace between April and September and favors regulation. He presented letters written by his neighbors to the Commission.

Linda DelGreco, 7 Florida Road, said they burn very little in the summer.

James Wysocki, 62 Eaglebrook Drive, opposes the ban, questioned each Zoning Commissioner on whether they took an oath to serve on the Commission, and took issue with Town Planner, Patrice Carson sitting with the Zoning Commission. Although, he does not plan to purchase an OWBF, he pointed out that a ban would be an unlawful decision and he would not need to obey this unlawful law. He explained to the Commission their obligation to uphold the Constitution. He stated that everyone at the hearing should be allowed to view Mr. Owens' video and insisted that the video be taken as evidence. He explained that he had no facts or data on OWBF's and does not understand why the devices are being singled out.

Rob Martin announced that the Commission had literature on the furnaces that could be provided to anyone who would like to read it.

Steve Sobaski, 432 Ninth District Road, is against the ban and has just installed an OWBF and does not plan to burn in the summer.

Scott Bradley, owner of Mainline Heating & Supply, Inc., 591 Ference Road, Ashford, is opposed to the ban and sells OWBF's. He spoke regarding reducing dependence on foreign oil. He gave the Commission a booklet that his business distributes and read aloud the pages on decreasing smoke emissions. Although his company sells, services and supports the furnaces, they do not install them. He suggests that the furnaces not be used in summer.

Ms. Carson gave to the Commission a letter that was received from the Connecticut Farm Bureau, which advocates allowing OWBF's for agriculture. She stated that the Planning Commission voted unanimously to recommend denial of the regulation as it exists. She explained that to approve the Zoning Commission must approve with four votes rather than just three.

A motion was made by Dan Fraro, seconded by Jill Conklin and unanimously voted to close this portion of the public hearing at 8:54 pm.

A brief recess was taken.

II. CALL TO ORDER

Chairman Rob Martin called the special meeting of the Zoning Commission to order at 9:05 pm. Members Jill Conklin, Ray Hafford, Rob Martin and Alternate Dan Fraro (seated for Wes Smith) were present and constituted a quorum. Town Planner Patrice Carson was also present.

III. INTERVIEW DESIGN REVIEW BOARD CANDIDATES

No candidates were present to be interviewed.

IV. OLD BUSINESS

a. DISCUSSION/POSSIBLE DECISION: SPECIAL USE PERMIT APPLICATION FOR HORSES

FOR COMMERCIAL PURPOSES, SECTION 214-89.A., 20 PINNEY ROAD, LINDY FARMS

After some discussion, a motion was made by Jill Conklin, seconded by Ray Hafford and unanimously voted to approve Lindy Farms' Special Use Permit application for horses for commercial purposes at 20 Pinney Road in accordance with Section 214-89.a. of the Zoning Regulations.

b. DISCUSSION / POSSIBLE DECISION: ZONING COMMISSION'S PROPOSED AMENDMENTS TO THE ZONING REGULATIONS FOR OUTDOOR WOOD BURNING FURNACES

The Commission discussed going to see an Outdoor Wood Burning Furnace first-hand and possibly talking with a DEP representative. It was agreed that much information had been provided in the public hearing and time was needed to review it all before making a decision.

A motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to move the vote on the amendments to the Zoning Regulations for outdoor wood burning furnaces to the January Commission meeting.

c. OTHER – There was no other Old Business.

V. NEW BUSINESS

a. DISCUSSION: STORAGE OF FERTILIZER ON A FARM

Louis Lipton of Pleasant View Farms on South Road, asked the Commission about whether the Zoning regulations would allow him to store fertilizer in a covered barn with a concrete floor on his property. This would not include flammable or explosive components, but only pelleted nitrogen, phosphorus, etc., the ingredients of standard 10-10-10 fertilizer. The fertilizer would not be kept for longer than one month at a time.

Mr. Lipton hopes to provide a fertilizer spreading service to local farms. Currently, small local farms have limited choice on where they can purchase their fertilizer because the vendor must also spread the fertilizer for them. Lipton's service would allow the farmers to take advantage of better fertilizer prices from vendors who don't spread. The farms would purchase their own fertilizer from an outside vendor. The vendor would deliver the purchased fertilizer to Lipton's Farm where it would be unloaded into the barn then loaded into Lipton's spreader to be applied to the farmer's field. This would also help the farmers because the vendors who spread fertilizer service their large accounts first. Lipton's would be able to provide more prompt service for the small farms.

Mr. Lipton hopes to be able to offer the service this spring. Ms. Carson and the Commission will research into any applicable regulations, i.e., Permitted accessory uses 214-98c. Mr. Lipton said that Decran Ag Service, Inc. in Voluntown, CT offers this kind of service.

b. OTHER – There was no other New Business.

VI. DISCUSSION: PLAN OF CONSERVATION & DEVELOPMENT

A. RIDGELINE REGULATIONS

Ms. Carson and Zoning Enforcement Officer Joy O'Connor had a conference call with Jennifer Lemansky, the Land-Use Administrator in Kent regarding using and enforcing ridgeline type regulations.

Kent's Horizonline regulations appeared to be closest to what the Commission was talking about for Somers. Kent has a provision in their regulation providing for the use of the balloon process, but they have never required it. The balloon process is very costly. They prefer to see applications when leaves are not on the trees so as to get a better idea of what is involved. They do not require a latitude but do require a topography. They require an A-2 survey for all new houses, large additions, barns, and large out-buildings. They do not require an A-2 for sheds under a certain size.

Mrs. Carson displayed Kent's topography map that has shaded areas designating the Horizonline District. These Districts were determined by locating the topography peaks and then measuring down 1,000 feet along the surface of the ground. Kent's Zoning Commission administers their regulation. An applicant whose property is within the Horizonline District goes before the Zoning Commission rather than to the Zoning Officer.

Kent's regulation has been in effect since Septembr 2005. They will be amending their regulations, so Ms. Carson distributed the proposed amendments to the Commission.

Ms. O'Connor would like more definitions in the Somers regulation than what Kent has and is willing to come to a Zoning Commission meeting if necessary. She and Ms. Carson offered to write a sample regulation as a starting point for the Zoning Commission. Items in the regulations for Kent, Suffield, Meriden and Somers old regulations could be used for the Town's new regulation.

VII. STAFF/COMMISSION REPORTS – There were none.

VIII. CORRESPONDENCE AND BILLS –There were none.

IX. ADJOURNMENT

A motion was made by Jill Conklin, seconded by Dan Fraro and unanimously voted to adjourn the December 10, 2007 Zoning Commission meeting at 9:42 pm.

Respectfully submitted,

Wesley Smith, Secretary

Jeanne Reed, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING