

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

**ZONING MINUTES  
SPECIAL MEETING  
THURSDAY, MARCH 26, 2009**

**I. PUBLIC HEARINGS:**

**a. PROPOSED AMENDMENTS TO THE ZONING REGULATIONS TO ALLOW OPEN SPACE SUBDIVISIONS**

Chairman Martin opened the public hearing at 7:00pm and the legal notice was read.

Mr. Sutter of the Planning Commission began the hearing with an overview and slide presentation. He explained that this regulation stems from fact-finding surveys that were taken during an 11-month new subdivision moratorium. According to the survey results 72% of those surveyed said that residential subdivisions that preserve more public open space but keep the same number of houses are a good idea.

He explained what conservation subdivisions are by contrasting with traditional conventional subdivisions. In typical subdivisions the lots are clear-cut disregarding disturbance of wildlife or water quality. Somers new regulation would reduce the lot size from 40,000 square feet to 30,000 square feet with a 125-foot frontage requirement. This will allow the same amount of building lots as would be in a conventional subdivision. The Commission reviewed the last 5 subdivisions approved in Somers and found that all would have had at least the same number of building lots under the new regulations. One of the subdivisions would have been allowed an additional bonus lot. The reduced frontage requirement reduces the road footage, thus reducing paving and utility installation costs.

Although lots are smaller and homes are closer together the homeowners benefit from an overall improved environment. In a review of conservation vs. conventional subdivisions it was found that home values are higher in conservation subdivisions. This produces higher tax revenue.

The new regulation would increase the open space requirement for conventional subdivisions from 10% to 20% more in keeping with the requirements of other local towns.

A packet of information regarding the proposed regulation was made available for the public at this hearing. The Plan of Conservation and Development (POCD) is available online at the Town website. The Planning Commission considered the land preservation objective from the POCD while balancing the rights of landowners when the proposed regulation was formulated.

Some of the issues brought up at the Public Forum have been addressed as follows:

1. How would this affect the value of property to be subdivided? The town of Granby was used as an example. In that town home values are \$100,000 higher in conservation subdivisions as compared to conventional ones.
2. A hypothetical scenario of a one-hundred acre lot had been given at the Public Forum. It was questioned by the landowner whether he would have any land to subdivide after applying the proposed yield formula. It was explained that when the goals of the regulation cannot be attained the regulation allows for the applicant to apply for a conventional subdivision.
3. The yield formula was reviewed for fairness against the last 5 approved subdivisions and was found to produce the same or more lots.

The floor was opened to public comment:

**Chet Ladd, 184 Mountain View Road** spoke against the regulations. He is opposed to the increase from 10% to 20% for open space in a conventional subdivision and described it as a taking from the public. He suggests that if townsfolk want land, a 20% surcharge should be added to everyone's taxes and then they can buy all the land they want. He added that the wetland, slopes and watercourses should be included in the 40% calculation. He does not believe that a 30,000 square foot lot would work in Somers because of septic and well concerns.

**Jeff Lipton, 432 South Road** spoke against the regulations. He does not want to see any change to the current subdivision regulations. In particular he takes issue with the requirement that when 4 or more lots are created from a subdivided parcel the entire parcel is subject to the 20% open space requirement. He explained that this would mean that for him to subdivide 10 acres he would need to give the Town 30 acres. If further subdividing of his property were to take place in the future an additional 20% would again be taken. He said that this regulation would force a landowner to sell his whole farm in one chunk, which runs counter to the aims of the POCD. He objects to the increase in the open space requirement to 20% and said that if the town wants this property they should buy it. He questioned the rationale of page 7 paragraph (a) that states that 10% of a property can be taken but the fair market value of the land transferred together with any fee will not cumulatively exceed 10%. He continued that if 20% of his land is taken, how can it not exceed 10% of the land's value? He feels that the Town has enough open space already. He also believes that the landowner should have the option of which type of subdivision plan to use.

**Ralph Wetherell, 219 Billings Road** spoke against the regulations. He pointed out that although the conservation subdivisions are allowed by the State they are not required. He believes that the regulation is a land grab and amounts to blackmail. He said that other towns that have had open space subdivisions don't like them now because the fragmented parcels become overgrown with sumac and poison ivy and are used for dumping. He said that some towns want to give the land back to the landowners but that they don't want it.

Mr. Wetherell presented a rough map of his property and showed how the proposed regulation would affect his 100-acres. In the 60's his property had been approved for 54 lots. He found that the lot count is about the same using the new yield formula. In summary he asked the commissions to stop the eminent domain without compensation.

**David Pinney, 214 Maple Street** spoke in support of the regulation. He feels the critical components to look at have to do with the value that is provided. He feels that the Commission has shown that these open space subdivisions would provide higher value lots and that is good for the landowner, the developers, the homeowners in the subdivisions and is also good for the Town in increased tax revenues. He appreciates the Commission's time and effort in this endeavor.

**Len Van Wingerden, 216 Stafford Road** cautioned that in creating value for some, the Town needs to avoid taking value from others. He said that if the 400 people who were surveyed want more open space they should purchase it. Although he said that some of the ideas discussed in this forum are worthwhile he thinks they need to be addressed in a different and more fair way.

**Jan Collins, 105 Ninth District Road** has been on the Open Space Trails subcommittee for twenty years. She explained that they have plans for the open space as it becomes available. She also said that as an avid birder she is concerned about the loss of habitat that can be rectified by the open space subdivisions. She hopes that not only forestland but also grassland and shrub land can be preserved.

**John Gale, 534 Billings Road** spoke against the regulation especially the increase from 10% to 20% in open space for conventional subdivisions. He reiterated the concerns with septic systems and wells on small lots. He spoke against the increased property values in conservation subdivisions because he feels the Town needs a mixed spectrum of pricing of homes not just the upper end. He is concerned that low wage earners will not be able to afford to live in Somers. He said his land is his 401K and feels this is a taking of land from him.

**George Grant, 87 Pioneer Heights** is also with the Northern Connecticut Land Trust. He said that open space is a critical need that must be addressed and believes that open space subdivisions are a good way to address this need. He owns 35 acres in Town and his parents own 250 acres and he favors the creation of open space subdivisions.

**Chet Ladd, 184 Mountain View Road** wanted to know the percentage of land in Somers that has already been preserved and is off the tax roles. Ms. Carson answered that dedicated open space is 7% and dedicated agricultural land is 9%. Mr. Ladd estimated that with the wetlands this equals about 25% of Somers that is not buildable. He does not believe that the same number of lots can be achieved with septic and water concerns.

Ms. Carson explained that Sanitarian Steve Jacobs reviewed the last 5 subdivisions for Health Code Compliance if the lots were 30,000 square feet and he found that the same number of lots could be created within the subdivisions.

Mr. Ladd reiterated that at Sunshine Farms the drainage was so good that a 150-foot radius setback was required on all the wells. He feels that the Commission selectively chose the subdivisions for review for what they were trying to prove. He reiterated that he feels the wetlands and watercourses should be included in the 40% open space.

**Blaine Buck, 59 Juniper Hill Drive** does not think that a house would fit on the smaller lots with the other zoning setback regulations.

**Joe Gosselin, 64 Root Road** thinks this a hair brain idea that is taking people's property.

**Scott Stanton, 119 Root Road** said he has 25 acres that the Commission will never take from him. He pointed out that all the major landowners in Town are against the regulation and the Commission should listen to them.

**Nancy Barrett, 327 Ninth District Road** is a third generation farmer. She is adamantly opposed to the increase in the open space requirement for conventional subdivisions. She believes that she was one of the 72% who were surveyed in favor of maintaining open space. She believes the Town should buy the open-space land at fair market value. She also thinks that the developers should have the choice of which style of subdivision they will use. She is also concerned with who would be responsible for caring for the open-space land. She thinks it is unjust that land can be taken from the landowners.

**Joe Gosselin, 64 Root Road** is adamantly against taking the land from landowners. He thinks that no more than 10% should be taken for open space.

**Judith Snyder, 10 Kibbe Drive** thanked the Commission and Ms. Carson for the time and effort put into this study. She moved to Somers for the open space and wants to see it preserved but said that she understands the concerns of large landowners.

*A motion was made by Ms. Rasid; seconded by Ms. Conklin and unanimously voted to close the Zoning Public Hearing at 8:28pm.*

The Commissions took a short break.

## **II. CALL TO ORDER**

Chairman Martin called the special meeting of the Zoning Commission to order at 8:35pm. Members Rob Martin, Jill Conklin, Dan Fraro and alternate Paige Rasid (seated for Ray Hafford) were present and constituted a quorum. Town Planner Patrice Carson was also present.

### **III. OLD BUSINESS**

#### **a. DISCUSSION/POSSIBLE DECISION: PROPOSED AMENDMENTS TO THE ZONING REGULATIONS TO ALLOW OPEN SPACE SUBDIVISIONS**

Mr. Boardeaux explained the rationale for increasing the open-space requirement for conventional subdivisions from 10 to 20%. It was one of the recommendations from the POCD to increase it and most other nearby Towns require greater than 10% open-space. The fee in lieu of open-space is capped by State law at 10% and most people pay the fee.

The Commissions discussed the wisdom in keeping the open-space requirement at 10%. Ms. Carson explained that when connectivity to other open-spaces is needed, the 20% requirement would provide usable space. However, it is very rare that open-space is taken.

The different ownership options for the open-spaces were discussed. The land could be held by a homeowner's association, a land trust, used for farming, or possibly used for a recreation field. The Town would only be responsible for the land if it were used for active recreation.

Allowing landowner or developers to make the choice of which type of subdivision they want was discussed. It was explained that it had been shown that profitability and value would be attained by all involved with an open-space subdivision. However, the primary objection people have with the change is that it is different than what they have done before and that they would need to learn something new. It is human nature to stick with what is familiar and unless the change is required subdivisions will continue to be done conventionally because that is what people are used to.

Selectman Pinney said that it is the Commission's job to see the whole picture and to balance fairly between the landowners and the rest of the Town.

Subdivisions resulting from an estate settlement are not subject to the open-space requirements.

Both Commissions decided that they would like to consider the public feedback more fully and to further discuss possible changes to the regulation.

The Zoning Commission decided that they would like to wait and see the final draft of the proposed regulation before making an enabling change to the Zoning regulations.

### **IV. ADJOURNMENT**

*A motion was made by Ms. Conklin; seconded by Mr. Fraro and unanimously voted to adjourn the special meeting of the Zoning Commission at 9:23pm.*

Respectfully submitted,

Wesley Smith, Secretary

Jeanne Reed, Recording Secretary

***MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.***