

MARCH 14, 2013 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening March 14, 2013 at 7:35 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Mary Beth Murphy
	Councilman	Richard G. Clinchy
	Councilman	Frederick J. Morrissey
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the proposed waiver of Recreation Fees for the Mews II at Baldwin Place. She explained that the waiver of Recreation Fess was \$463,450.00 to \$400,000.00.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Journal News on March 5, 2013 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing opened and asked for comments from the public.

Mr. Eugene Goldenberg, Heritage Hills, said that he was having lunch with his wife and someone thanked him as a member of the Planning Board for what he had done for them by approving the Mews. He thanked the Town Board as well.

There being no one else to be heard on motion of Supervisor Murphy, seconded by Councilman Morrissey, the public hearing was declared closed at 7:37 PM.

Town Clerk

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ROLL CALL:

PRESENT: Supervisor Mary Beth Murphy
 Councilman Richard G. Clinchy
 Councilman Frederick J. Morrissey
 Councilman Thomas A. Garrity, Jr.
 Councilman Anthony J. Cirieco

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was the continuation of a public hearing with regard to a proposed Local Law containing proposed amendments to the Town of Somers Zoning Code, Chapter 170 in relation to the provisions of the NS Zoning District. The proposed local law modifies the permitted uses to permit apartments over non-residential uses rather than just apartments over stores, and adds a new provision which would permit apartments on the first floor without non-residential uses on properties of a certain size and meeting other criteria and where a determination is made that non-residential uses will not be marketable on parts of the site, and where at least 50% of the proposed apartments will be Affordable Dwelling Units.

The Supervisor declared the hearing open and asked for comments from the public.

Ms. Carol Sturtz, Heritage Hills, Somers League of Women Voters, said that the League of Woman Voters had been working towards implementing affordable housing for about eight years. She said that they were aware of the issues with the Zoning Code and also they were aware of the large amount of vacant retail space. She said that additional retail space at this time did not seem to be a good thing. Ms. Sturtz said that she also wanted to point out that the proposal offered an opportunity for young people to have affordable housing in their community. She urged the Board to please consider approving the proposal that evening, they needed to move ahead.

Mr. Dennis Persico, 266 Mahopac Avenue, said that he opposed this project and that he was never notified about this meeting. He said that he believed that this project would affect the value of his property. He said that when he purchased his property he knew what the Zoning Code was and what the worst case scenario could be for the property next to his. Mr. Persico said that they should have let the neighbors know that the Board was considering changing the Zoning for this property. He asked that the Board not vote that evening and to let the adjacent property owners know about what was going on. He said that another issue concerning him was why this was all being clustered together. Mr. Persico said that he felt that they needed more time and they should be afforded that time to look into what was going on.

Ms. Stacey Schriro, resident, said that she was a lifelong resident of the Town and would like to continue to live in Somers and unfortunately with the current economy she could not afford to do so at that point in time. She said that she was a local volunteer and was very active in the community. She said that she was a member of the first response team. Ms. Schriro said that for the young people not to have a place to go and want to stay here and help the Town grow this project was a valuable asset. She explained that it offered those coming out of college an opportunity to stay in their community. She said without that opportunity the younger generation will go other places and that is, their community of volunteers. Ms. Schriro said that in order for things to grow they needed to have the younger generation to fill those volunteer roles. She urged the Board to support this project especially for the younger generation.

Councilman Garrity said that he wanted to make sure that Ms. Schriro understood that this particular development could not give preferential treatment to residents or volunteers. He said that this was a lottery.

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Ms. Schriro said that she understood that; although at least there would be a chance to be able to get housing like this and younger people would want to stay in Somers.

Mr. Barry Singer, 157 Heritage Hills, said that he was the Chairman of the Affordable Housing Board and the President of At-Home in Somers and he spoke on behalf of those organizations as well as for himself. He read a letter that he sent to the Town Board members in support of the Zoning text amendment where he quoted a portion of the Town's agreement with Westchester County regarding the acquisition of what was now known as the Angle Fly Preserve.

The Supervisor said that the agreement that Mr. Singer had read from was a fairly lengthy document. She said that although Mr. Singer read one portion of the agreement she wanted to read one sentence of the agreement that was regarding the Town not be obligated to take actions that were inconsistent with their Town Code. She said that she also wanted to clarify something with regard to CDBG funds that the County had allowed the Town to apply for. The Supervisor said those funds were based on the Senior Affordable Housing at the Mews, which was the premise on which the Town was eligible for those funds. She explained that seniors were a presumed eligible group and that was exactly what the County told them to include in the application.

Ms. Linda Whitehead of McCullough, Goldberger & Staudt, LLP, representing The Green at Somers property owner, said that she wanted to clarify some of things that Mr. Persico had stated and make sure the process was understood. She explained that the Planning Board would be holding public hearings as part of their Site Plan Review, Wetland Permit and the other various Environmental Permits where the adjacent property owners would be notified. She said that Site Plan issues would be addressed at that hearing. Ms. Whitehead said that what the Town Board was considering was a text amendment, the Planning Board had jurisdiction over the Site Plan. She said that she also wanted to clarify that what the Town was doing did not permit the construction of affordable housing. She said that affordable housing was permitted on the property; it would have to be under the current Zoning Code which was apartment over stores. Ms. Whitehead said that all they were looking to change was in portions of the site they could have apartments on the first floor without the first floor stores. She said that the Board had heard that there was not a demand for that type of retail; Route 6 was over retailled at that point. She said that they would end up with empty stores and they had given the Board studies with regard to that. She continued that the Planning Board had looked at that issue for over a year and were concerned with ending up with dark stores. Ms. Whitehead said that the affordable housing could be built without the text amendment as part of a mixed use development. She said that the plan was also consistent with the 1994 Comprehensive Master Plan. She said that they were asking the Board to help them move this project along; they had made really good progress with the Planning Board.

Mr. Rick Van Benschoten, The Green at Somers property owner, said that Ms. Whitehead sent a letter a few weeks ago with regard to Recreation Fees and he wanted to clarify how much they were offering. He said that they were offering \$400,000.00 for Recreation Fees and \$70,000.00 for the construction of sidewalks. He said that if the Board would rather the full Recreation Fees with the remainder going to sidewalks they were offering \$470,000.00 in total. Mr. Van Benschoten said that they were oversizing their pump station for the other residents that would be potentially going into the Sewer District with them. He pointed out the other benefits that the Town would be receiving with the development of his property. He said that they had appreciated working with the Town Board and that they had been working with the Planning Board for a year and a half to get to this point. Mr. Van Benschoten urged the Board to close the public hearing, put this matter to a vote and allow them to continue working with the Town.

Councilman Clinchy said that he did support the project although he is sympathetic to the concerns of the neighboring residents. He asked if the neighbor's concerns would be addressed by the Planning Board and would they ensure that the neighbors would be protected.

Ms. Whitehead said that the Planning Board had spent a fair amount of time looking at impacts on adjacent properties, residential properties in particular. She said that they had provided the Planning Board with aerials and other information that showed the relationship between their property and the adjacent properties. She continued that none of the adjacent homes were that close to their property although they were still providing screening, low walls to block headlights and plantings. Ms. Whitehead said that the closest house was 600 feet from the property line.

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She said that the Planning Board had already looked at that issue if the neighbors express their concerns during the public hearings the Planning Board would look into this again. She said what they needed to look at the existing Zoning was, they could not have expected the Golf Driving Range to be there forever, the Driving Range was a non-conforming use of that property, it was not permitted under the current Zoning Code. Ms. Whitehead said that the buildings that were being proposed conformed in size and configuration to the existing Zoning; the only difference was they were asking that the first floor on the back three buildings would be residential instead of retail. She said that it was important to understand that their properties abut a potential commercial zone.

Councilman Clinchy said that he understood that and anyone could look at what the potential problems could be but no one knew the problems better than the people who were affected by them. He said that he wanted to ensure that their concerns were addressed.

Ms. Whitehead said that it was an issue that the Planning Board had been concerned about; when they did their site walk they all looked at where the adjacent homes were.

Mr. Van Benschoten said that he and Mr. Dan Holt, his Engineer, met with Mr. Gorecki an adjacent property owner. He said that Mr. Gorecki wanted to see the layout of the property and the visuals from his property and they were satisfied.

Councilman Ciriaco said at the last meeting they introduced the concept of three bedroom units to the project. He asked Mr. Van Benschoten to explain that to the Board, why the change. Mr. Van Benschoten explained that initially they were talking about just one and two bedroom units and the County based on the funding wanted two three bedroom units.

Councilman Ciriaco said that at the last meeting Mr. Van Benschoten introduced the idea of a development partnership and asked him to explain that to the Board. Mr. Van Benschoten said that in the last year dealing with the Town Board and the Planning Board it would be important to have a development partner that did those things fulltime. He said that they all knew Mr. Ken Kearney, he was a great developer and he felt that the Town would find the same comfort level with his developer Mr. Larry Regan. He said that his Architect did a lot of work for Mr. Kearney and Mr. Regan and he would be doing the work on the conceptual of the proposed Community Center. The Supervisor said that nothing had been laid out; there was a box on an aerial photo. Mr. Van Benschoten said that his Architect did the pricing so that they would have an understanding of what it might cost.

Councilman Ciriaco asked if it was Mr. Van Benschoten's intent to be a minority participant in the project. Mr. Van Benschoten said that had yet to be determined, they had a long way to go with the Sewer Application although he has a good comfort level with Mr. Regan and they will come to some sort of agreement. He said that he felt to have an Affordable Developer who had done this for 25 years would be a plus for him. Councilman Ciriaco said that for the last several months they had been planning this project and then last week they ran into this concept of a partnership. He said that the Board did not know Mr. Regan and they were being asked to proceed with this project at an expeditious pace. He said that he would like to get to know what they were dealing with; it was his job to understand the implementations of the project. Mr. Van Benschoten asked Mr. Regan to address the Board and introduce himself. He said that it was his understanding that Supervisor Murphy was going to try to schedule site visits of some of Mr. Regan's properties for next Friday at noon.

Mr. Larry Regan, Affordable Housing Developer, said that it was important to get to know and form a relationship between the Developer/Owner of a community such as this and the Leadership. He said that was something that they took very seriously. He explained that they had been doing this for a long time, they were a family business and the first thing they usually do is sit down with the Leadership of the Community if this was something they wanted to consider. Mr. Regan said that the 40 year relationship that they were discussing was exactly the same way they looked at it. He said that they treat these projects as their family assets. He said that when he and Mr. Van Benschoten met with Supervisor Murphy this was what he explained to her. Mr. Regan said that he would be happy to explain this to the rest of the Board when they had more time on their tour next week. He continued that he and his brother owned these assets and they wanted to pass them on as performing highly, workable developments for the community to their children. He said that the way that they looked at this was they were tools of

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a community to come together to solve the affordable housing issues in the community. Mr. Regan said that they were also community members, they made it their business to do quarterly meetings with the Elected Officials and they make sure that they have a good working relationship with all of the community partners that they had in Town and that their management was in touch with the community. He said that they were looking for the same thing that the Town was which was to protect their asset, ensure it was properly functioning and that the community was being served in the manner in which it was meant to be in the form of providing affordable housing for their residents.

Councilman Morrissey said that he did visit two of Mr. Regan's developments, one in Fishkill and one in Newburgh. He said that the Fishkill property looked brand new with multi-family housing that was very well maintained. He said that they had a playground where tenants and children were playing. Councilman Morrissey said that he found just the opposite in Newburgh. He continued that the physical structure was not in good repair and that was of great concern to him. He asked if there was a management plan that they would apply. Mr. Regan said that he sent the Board a letter with regard to the property in Newburgh and pointed out some of the processes that they were going through with that property and why the property was in the condition that it was in. The Supervisor asked why they did not maintain the property over the course of the years that they had owned it. Mr. Regan said that the property was maintained, they were in the process of getting it together. He said that annually there was property maintenance and management that was done. He continued that once they did the closing everything was going to change and that property would be just like his other properties. Mr. Regan said that they had the same quality and characteristics as the Kearney's, they have a mutual respect between them. He continued that what the Town had with Mr. Kearney and his son in the senior housing they would have with him with the family workforce housing.

The Supervisor said that she initiated the grand tour that the Town Board took. She said that she went all the way to Monticello; she went to their website and got a list of rental affordable housing. She said that there were four properties listed in New York and about another four in New Jersey. The Supervisor said that she visited all of the properties in New York and she was even concerned about the Fishkill property. She said that it was two years old and there were already places where the brick had to be repaired and a lot of pointing being done on the brick which was a concern. She said that she also had the Somers Police Chief call the Fishkill Police Chief to ask about Police calls and that was not good news either. She said that she was willing to go see the property he wanted to show the Board but she did do her own tour. The Supervisor said that she spoke to some of the residents that lived in some of the facilities as well.

Councilman Clinchy asked the Town Attorney if the Town wanted to ensure that the property looked good and was well maintained over the course of time was there any way they could protect themselves. The Supervisor said that they could have them post a bond. The Town Attorney said that they could have cash as a security. Mr. Regan said that it was a matter of a phone call from the Code Enforcement or Board Leadership to him stating that there was an issue. He said that was the reason that they met regularly with the Elected Officials so that they could be aware of any issues that the Town had and that was the kind of relationship they wanted with Somers.

Councilman Cirieco said that he would like to understand a little bit more about their business model and what made them successful, what could go wrong and why they had the issues that they did in Newburgh. He said that he was willing to meet with Mr. Regan and go over those things. He said that it was their job to look at all of the aspects of the project.

The Supervisor said that she wanted to note for the record that they received a letter from the Gorecki's that afternoon asking a series of questions. She said that she wanted that to be part of the public hearing record as well as any other correspondences that were received.

Mr. Eugene Goldenberg, Heritage Hills, said that said that the person who spoke about the younger generation moving to Somers struck a note with him. He said that recently he found out that in Heritage Hills, which is mostly a Senior Community had gone from 60 children to over 300 children. He said that he wanted to the Board to know unless they grow they were not going to be doing what they should be doing, the way to grow was a have young people to move into these developments.

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Mr. Persico said that the owner of the property wanted to develop the property to make a profit. He said that currently that property had rules associated with it. He said that they wanted to make a greater profit and that was why they wanted the amendment. Mr. Persico said that was not fair to the adjacent property owners. He said that they should make the property owner build their property the way the law allowed him to.

The Supervisor suggested that they close the public hearing and set a ten to fifteen day comment period for people to submit written comments.

There being no one else to be heard on motion of Supervisor Murphy, seconded by Councilman Morrissey, the public hearing was declared closed at 8:20 PM with a fifteen (15) day written comment period.

Town Clerk