

**ZONING COMMISSION
TOWN OF NEW FAIRFIELD
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NEW FAIRFIELD, CT 06812
PHONE: 203-312-5646**

Public Hearing

New Fairfield High School Cafeteria
7:00 p.m.

**MEETING MINUTES
TRANSCRIPTION.**

PRESENT: Faline Schniederma-Fox, Chairman, John Moran, Vice Chairman, Joe Letizia, Fred Zering, Jim Mitchell, Maria Horowitz, Zoning Enforcement Officer, Attorney Gail McTaggart, Lyn Sheaffer, Secretary.

Faline Schneiderman-Fox

Good evening, this is a special meeting of the New Fairfield Zoning Commission. Today is November 1, 2007; the time is 7:36 p.m. In attendance tonight are Joe Letizia, Jim Mitchell, Vice Chair John Moran, myself chair Faline Schneiderman-Fox, our Zoning Enforcement Officer Maria Horowitz, Town Attorney on said project Gail McTaggart, our secretary Lyn Sheaffer, and regular member Fred Zering.

The only item on our agenda tonight is the Public Hearing regarding the adoption of the new zoning regulations that the commission has been working on since roughly 2004. But first I would ask our Zoning enforcement officer, to please read the call for the public hearing into the record.

Maria Horowitz - ZEO.

Legal Notice: Notice is hereby given that the New Fairfield Zoning Commission of the Town of New Fairfield will hold a Public Hearing on Thursday, November 1, 2007 commencing at 7:30 p.m. to be held in the New Fairfield High School cafeteria, 54 Gillotti Road on the following: 1. a complete proposed revision to the New Fairfield Zoning Regulations titled Final Draft August 16, 2007 and complete revision to the New Fairfield Comprehensive plan / zoning map as initiated by the New Fairfield Zoning Commission. The complete proposed New Fairfield regulations titled Final Draft, August 16, 2007 and the complete revision to the New Fairfield Comprehensive plan/zoning map are on file at the New Fairfield Zoning office, the office of the Town Clerk. They are also available online at nfl@newfairfieldlibrary.org at the time of public hearing interested persons will be heard and written communications will be accepted. This was published in the Citizen News and the News Times. The Citizen News on October 18, the News Times October 21 and the Citizen News on October 25th.

Faline Schneiderman-Fox

Thank you. Also, I'd like to ask our Zoning Enforcement Officer to state what other agencies the regulations were distributed to and when for the record.

Maria Horowitz – ZEO

They were distributed to Housatonic Valley Conference of Elected Officials on September 7th The Planning Commission of New Fairfield on September 7th. The Danbury Water Dept. according to Public Act 0653 regarding Margerie Reservoir. Connecticut Dept. of Public Health, Town Clerk, city of Danbury September 19th. Town Clerk, Town of Brookfield, September 18th. Town of Southeast, Town Clerk September 18th Town Clerk, Town of Sherman, September 18th. Town of Patterson, Town Clerk September 18th. Town of New Milford, Town clerk, September 18th.

Faline Schneiderman-Fox

Thank You. This is a very brief introduction we're here because the existing regulations for the New Fairfield Zoning Commission date to roughly April 1990, so they are 17 years old although they have had periodic revisions. The 2003 Plan of Conservation and Development indicates that the Zoning Regulations should be revised for the following reasons: To make them more user friendly, to implement plan recommendations and to promote consistency between the plan and the regulations. We started working as a Commission in 2004, early 2004 with a planning company, Planimetrics in the early spring. We held several public workshops over that course of 2004 during which time various members of the community and other agencies had an opportunity to speak with us about what they would like changed in the regulations. We continued to meet with Planimetrics through the end of that year although they stopped working with us in 2005 at which time Attorney Gail McTaggart who is 2 seats to my right continued to overhaul the regulations and to complete them insuring that they were legally something that could be upheld. A draft was completed in early 2007 then our commission worked with Paul Hiro a licensed surveyor who has done other mapping areas of the town to complete the mapping for this project. The consulted documents and specialists in other departments included, we consulted the Plan of Conservation and Development, July 15, 2003 as a document date. The New Fairfield Subdivision Regulations, June 1, 2004. The Action Plan for Preserving Candlewood Lake and recommendations for New Fairfield Connecticut December 2002, plus additional input from Executive Director Larry Marciano, Candlewood Lake Authority. We worked on aquifer protection plans that were courtesy of HVECO and the New Fairfield Water Pollution Control Authority. We looked at other towns zoning regulations and met with the Fire Dept. There may have been other meetings as well that I have not listed but I think that's the gist of it. I'm going to read just briefly the goals of the new regulations as stated, the proposed new regulations.

There is listed in section 1.1: The goals of these regulations are to regulate the height and number of stories and size of buildings and other structures. The percentage of the area of the lot that may be occupied or covered by structures or other impervious surfaces. The size and location of yards and other open areas. The density of population. The location and use of buildings, structures and land for trade, industry, residence or other purposes including water department uses. And the height size and location of advertising signs and billboards. To conserve and stabilize the value of property. To lessen congestion in the streets and highways. To secure safety from fire, panic, flood and other dangers. To provide adequate light and air and to prevent the overcrowding of land and the undo concentration of population. To provide adequate light and air to facilitate the adequate provisions for community utility and facilities such as transportation, water, sewage, schools, parks and other public requirements. To encourage the preservation or the prevision of housing options and opportunities to control soil erosion and sedimentation. To protect existing and potential sources of potable water. To protect water quality in Ball Pond, Candlewood Lake and other surface water resources. To protect agricultural resources. To promote the historic character of the community and most appropriate use of land throughout the municipality. To the extent consistent with soil; types, terrain, infrastructure capacity and the Plan of Conservation and Development for the community. And to provide through conservation subdivisions in residential zones, and finally to encourage the development of housing opportunities including consistency with soil types, terrain and infrastructure capacity for all residents of the municipality. To promote housing choice and economic diversity in housing including housing

for both low and moderate income households, and to encourage the development of housing which will meet the housing needs identified in 8-37t and 16a-26 of the general statutes. That would be the Connecticut general statutes we're referencing.

We on the Commission have put a lot of time and energy and effort into this with the assistance of many people whom we thank. We're going to open this up to comment from anyone else on the Commission at this time.

We're going to open up the Public Hearing to the public for comment. I would ask that if you have a question or a comment that you would please approach the table because the microphones do not pick up voices in the back of the room. State your name, state your comment and then give us an opportunity to address it. We have the Town Attorney in here as well to help us address it if there are revisions we should consider making, we will consider that as we go along.

I should note that we were provided with a letter, actually before I open it up, dated November 1, 2007. This is from Attorney McTaggart, with Secor, Cassidy, and McPartland PC. She offers some, we had some comments from the Planning Commission because we received a negative referral from the Planning Commission, actually I have will have first Maria read the letter into the record.

Maria Horowitz, ZEO

From the New Fairfield Planning Commission, Dear Faline in accordance with Section 8-3a of the Connecticut General Statutes, The New Fairfield Planning Commission considered it at it's September 24, 2007 regular meeting a referral from ZEO Maria Horowitz for the New Fairfield Zoning Commission dated September 7, 2007 for consideration of the proposed draft of the New Fairfield Zoning Regulations and proposed zoning map/comprehensive plan. After extensive discussion, the Planning commission voted against approval of the proposal by a 0-4 vote. Among the reasons for its vote were the following:

1. Lack of clear understanding of the proposed changes in the regulations
2. Lack of clarity about the new zoning districts.
3. Need for more information about density calculation and its application.
4. Lack of understanding of the context of the changes made.
5. Lack of clarity on the changes regarding open space.

Accordingly this action is reported to you. Sincerely, Philip A. Nelson, Chairman, Planning commission.

Faline Schneiderman-Fox

Thank you, We received a letter today from, as I was saying, Attorney McTaggart trying to address the concerns of the Planning Commission. She, in addition to address some of those concerns and helping to help us clarify the regulations so that the specific items can be addressed I mentioned that there have been changes to the state statutes, that have been adapted since we actually drafted this that would also have to consider. Would you like to address this?

Attorney Gail McTaggart.

Certainly. For the record I'm Gail McTaggart from the law firm of Secor, Cassidy and McPartland. When we started working on this the Planning part of these regulations was done by Planimetrics. I'm not a planner, I'm an attorney, and I did the legal review based on the Planimetrics model that was put together. There have been a couple of changes that have taken place since the drafts of the regulations that are important that need to be incorporated. And then I had some very minor comments on some of the other regulations. There was a change to 8-26 of the general statutes that

have to do with the grandfathering rights of subdivision lots that are adopted prior changes in the zoning regulations. Simply, we'll call this the Greenwich Rule, because Greenwich, CT has issues with when a property was vacant and when it was considered not vacant. Because people would tear down a house and then build up another house and the question is whether they got the benefit of the regulations at the time that lot was originally created in the subdivision or if they had to comply with the new statutes. Out of that controversy, came a revision to the general statutes, and I am suggesting that statute supercedes all zoning regulations in the state and therefore I thought it was a good idea to put it into these regulations so people could read the regulations and know what it is. So, I suggested we add a section that would reflect that and what that section says it would be a new section 7.2.5 under the nonconforming lot section that would read:

Notwithstanding, any other provisions of these regs, or any special act or law which is by the way what the statute says. Notwithstanding any special act, any law any other regulations to the contrary. Any construction on a vacant lot shown on a subdivision or re-subdivision plan approved before, on or after June 1, 2004 shall not required to conform to the change in the zoning regulations or boundaries of the zoning district in the town, city borough adopted after the approval of the subdivision or re-subdivision. Further, any construction on an approved lot shown on a subdivision or re-subdivision plan approved before, on or after June 1, 2004 shall be required to conform to changes adopted subsequent to said lot becoming an approved lot. And then there's a definition in the statute that we include for purposes of this subsection. A lot shall be deemed vacant until the day a building permit with respect thereto and a foundation has been completed in accordance with said building permit. It shall not be deemed vacant if any structures on such lot are subsequently demolished. And a lot shall be deemed improved after the date a building permit is issued with respect thereto and a foundation has been completed in accordance with the building permit.

So, this is probably not such an issue in New Fairfield, but it became a very big issue down in the costal areas of Connecticut and the tear down sort of modeled this happening in areas that are completely developed is moving up in other directions and our state legislature passed this law, it applies to all towns. This rule is put into the regulations, it would apply if you put it in here or not, we really should put it in so people know what their rights are under these regulations.

The second proposed change is very minor, and some of you have the regulations with you, I'm looking at 1.5.4. One of the emphasis of the new regulations was to meet the requirements now of the DEP. Particularly set forth in the 2004 Storm water guidelines of the DEP that really is requiring that all development take into account water quality, this means in some cases rain gardens that are put in that add infiltration so that storm water stays where it is and decreases flooding and the effects of drainage from impervious surfaces in subdivisions. So, throughout these regulations there have been additions that were added. This was started by Planimetrics and we completed it to make sure that we did include this as an addition. Also this acts consistent with the Plan of Conservation and Development. So this section is a general section, it applies throughout the town for storm water management. And what I did, I just changed a few words because what they had in here is that there could be no net runoff, no increase in net runoff post development from the pre-development amount of water of volume. I ran this by a couple of Engineers, and I think some of you that have sat through Land Use Commission meetings, particularly Wetlands meetings and Planning Commission meetings for subdivisions know that there is always more volume coming off of a property after development. The concern is really the peak flow that takes place, whether that peak flow remains the same before and after development. And this is what our Engineers must do under the 2004 Storm Water Guidelines to retain water through infiltration, through bio-detention basins, many times through planning material that is used to pick up pollutants from road surfaces and hard surfaces that are on property. So, what I did is I just revised this so the definition of no net runoff shall mean the peak flow of storm water from the site after development shall not with the extent that is practical exceed

the peak flow prior to the development. There is much more detail in different sections of the regulations. There's a much more detailed requirement on storm water depending on the zone and the kind of development within these regulations. But this one provision at the beginning, general provision needed this correction.

There was a comment from the Planning Chairman who had provided a letter with a few comments that were more specific than the general comments that came out from the Commission on their referral having to do with some footnotes that we have in the charts that refer to the conservation subdivisions that are new in these regulations under section 3.7. What happens under the regulations is that the Planning Commission has been delegated authority from the Zoning Commission to approve Special Permits for conservation subdivisions, which are kind of a cluster subdivision where there is a much greater amount of open space and the lots are more clustered for more efficient design of roads and the creation of large un-fragmented areas of open space. That section of the regulations 3.7 is a special permit section and it permits the planning Commission to reduce certain standards for lot sizes, frontage, and area in order to provide for this cluster development and a much larger area of open space. The 3.7 that regulations was a Planimetrics design scheme that responded to needs of the town to have an alternative to a traditional cookie cutter subdivision that has a better protection of open space lands and the rural character of New Fairfield. So because of that the standard set back provisions in the regulations and other provisions can be varied if an applicant comes in with a special type of development and if so there had to be some limitations put on that and new rules set for that. So we have a chart in the zoning regulations that sets down the area of bulk requirements and then there is a footnote to that chart that says go take a look at section 3.7 because if you have a development that you're applying for under 3.7 there could be some relief from some of those provisions up to a certain point. So, because of that, I'm just suggesting that that footnote be clearer which was a request by the Planning chairman which I thought was a good one so the foot note says "by special permit the Planning Commission may modify minimum lot size, minimum road frontage, minimum setback and maximum building area to encourage the permanent preservation of open spaces in conservation subdivisions as per section 3.1.2j and section 3.7 which before was referred to in 3.1.2j but not in this footnote. And then I've added "the maximum extent of such modifications is set out in the regulations for each applicable zone. What happens is as you go to each particular zone, if a property is within that zone and an applicant wants to develop a conservation subdivision there will be limits on how much the planning commission can reduce those areas, setbacks, road frontage requirements and so forth.

The next section is just a technical change that I'm requesting. There's a provision that limited fences to 6 feet and then I found in the regulations a couple of exceptions and I wanted to make sure it was clear that we didn't have conflicting provisions in the regulations. The two exceptions are if there's a swimming pool it will be the requirement of the building official, the building code which could change from time to time so that building code always trumps the requirements for the fences around swimming pools. The second place in the regulations was for tennis courts and those sorts of facilities that there could be 10 foot fence providing that it is see through and so forth. So there were two exceptions and this is to make sure that the regulations would say unless otherwise set forth in these regulations the rule is 6 feet.

No one cares but 3.12 needs a colon, turn around needs a dash, you don't care about that. The minimum building setbacks were set out in the same issue we just talked about where the planning commission has the authority to reduce setbacks We have a provision that said for instance in 3.1.6 which I believe is the R88 zone that a front yard 75 feet may be reduced to 40 feet. I'm suggesting that we just revise that wording a little bit to make clear that what we're saying is the rule is that there is a 75 foot setback but what can happen with a planning commission conservation subdivision is it

can be reduced to 40 feet. All I'm doing is suggesting that it be reworded to say front yard setback 75 feet: the setback may be reduced to a minimum of 40 feet pursuant to section 3.7 and the same language for side yards and the same language for rear yard. In those same changes to flow through other sections of the regulations that also have reductions for conservation subdivisions so that is clear there is one standard which is the typical standard traditional subdivision standard if there's a conservation subdivision planning commission can reduce it and this is setting the limits for that reduction. I didn't change the amounts of the reduction in any way just the verbiage to make clear that that's what's happening.

The next change was just a word Commissioner and it needed to be defined as the Commissioner Environmental Protection in the aquifer protection district so that it doesn't mean a commissioner on this board.

The next change is at section 5.213. I'm suggesting that the aquifer protection district is a new district under these regulations to protect the water quality in New Fairfield that depends on wells that people's homes depend on wells and therefore depend on the aquifer. The state of Connecticut will be, and is in the process of classifying these aquifers all over the state. They're looking at the ones in more concentrated, denser areas of population first and slowly they're getting to the other towns and they're in the process of doing that and there will be standard regulations that are sort of like a wetlands regulations model that are coming out of the state of Connecticut and when that happens, once the town has what they call class A designation, you will in this town in 3 months, will have to get regulations together that meet the sort of standard model which is much like the wetlands model except will be an aquifer protection model. What we did is, I did make some revisions to what Planimetrics did because what I did is I got hold of what that model will look like and I tried to as much as possible incorporate that model into these regulations so that when this happens you'll be able to switch over and have a regulation that is just about there. One of the things that is interesting about that model, many towns that started off with their own aquifer protection regulations which you will have if this is passed started off with setting certain uses you could not do if you have property over the aquifer. The trend under the state model is to do that to some extent, certain uses are absolutely inconsistent with an aquifer, something that would cause pollution to the aquifer. But, the state's model is more of an operational model that actually says look at the impacts, look at that particular activity and if the impacts have the effect of polluting then it's not allowed. So instead of trying to think of every single use that might cause pollution to the aquifer, the regulations do have some uses listed that you probably saw if you've read this but they also have certain functional evaluations that take place so the Commission actually looks at what's presented to them and determines if that use is going to pollute based on engineering studies and so forth that are supplied to it. Because of that section 5.213, there's a section in the regulation about non-conforming uses which are uses that preceded these regulations as they are passed. I just added some words to section 5.213b that said all nonconforming uses, and I wrote under this section shall be terminated whenever and wherever the Town of New Fairfield and its agents may legally exercise its powers to protect the groundwater of the town of New Fairfield. If there's a use out there over the aquifer and it is polluting and causing real public water and health problem there will be an ability to go in there and stop that for any use that's taking place.

The next section said that no non-conforming use shall be changed to another use without groundwater protection permit and no non-conforming use shall be changed to a use prohibited under "with respect to the provisions of this section." The reason for that is nonconforming use under zoning typically means a zoning use that was created if it's a legal nonconforming zoning use it was created before the regulations came into being. In this case we're talking about aquifer uses over the aquifer

that are in being prior to the aquifer protection regulations and I wanted to make sure that's what this section was talking about.

Under temporary signs, because it's an election year, all of us that represent communities usually get our standard letter from I think it's the civil liberties union is usually the people that write all the zoning Commissioners and make sure that we're not prohibiting signs that are free speech and publicly the most basic free speech right would be the right to advertise who you want to vote for, so, most towns are pretty careful about prohibiting those signs. No matter how messy they might get and that's fine but what we should be able to do is have those signs come down within 5 days after an election so they just don't stay up. I'm just suggesting that we not regulate them, but we require that they come down 5 days after that, and even the civil liberties union has no problem with that approach. There was one reference to political signs that was in there but it didn't say that and I thought we should add an exemption that said political signs are exempt providing they shall be removed within 5 days of the balloting except in the instance of a primary, special election or referendum that occurs within a regular November election sequence. Such sign shall be removed within 5 days of the regular election. I know in the community that I live in usually they go down faster than that 5 days should be plenty of time to get those down. Usually if people are going to run for office again, they want to save them for the next elections so it's a good thing to get them down and save them.

There was a question about the exemptions from the aquifer protection section of the regulations and whether the planning commission was going to need to see that there was a ground water permit issued before the planning commission could act on a subdivision, whether it was a pre-condition to it. First of all the regulations themselves state that application can be simultaneous with other applications so it doesn't have to slow the whole application process down. The second part is that single and two family houses are exempt from that ground water permit except in a situation if there were a situation and this is not typical where there was a subdivision that somehow there was going to be more than 200 gallons per acre per day. That's a huge use and usually that would be a congregate housing something that is much larger than a single subdivision, then that kind of residential use would come through the aquifer protection group. What this means is a permit gets issued along with the other permits that are issued for development for an aquifer protection district. There are many towns in Connecticut that have aquifer protection districts and this hasn't been a problem. The applications are submitted at the same time as the subdivision plans and development plans The Commercial subdivision or a large commercial use, they come in at the same time, they get reviewed at the same time. A lot of the issues regarding ground water protection are part of the standard part of the regulations anyways. So there is some over lap between protecting the aquifer and protecting the ground water generally. I did notice that in the exemption we should consider the exceptions to the exception for residential type uses were pesticides and fertilizer uses where there's applications and a management plan is required. The second one was monitoring, if there is well monitoring or periodic sampling going on that would be part of the ground water protection application process and I think I already talked about the septic systems or sewage systems that have more than 200 gallons per acre per day and all septic systems would have to be approved by the health department, but they all have to be approved by the health department anyway so that's not the new responsibility or requirement for applicants.

I changed a provision at section 14b that involves the ZBA because we have a state statute that says an appeal field period for appealing a decision by the Zoning Enforcement Officer or the Zoning Commission when the Zoning Commission is acting in its enforcement capacity enforcing the regulations can be 15 days based on a rule set by the ZBA or if there is no rule set it's 30 days. It's 15 days unless the ZBA sets the rule if it doesn't set the rule then the statutory time is 30 days. I've talked to the chairman of the ZBA and the ZBA is going to be clarifying if it has such a rule so I just

revised this section to make clear that it's either 15 days as set forth by a rule of the ZBA or if there is no such rule then it's a 30 day appeal period. Most towns in Connecticut have opted for the 15 day appeal period because for a couple of reasons. One reason it actually helps the petitioner if they've got a problem and they've just been turned down and it's in conjunction with them building a house it gets them to ZBA faster and the decision made faster on that issue. Usually when there is a denial of a zoning permit and it's the kind of thing that's appealed to the ZBA in its enforcement capacity and those appeals generally are somebody coming with a set of plans and that don't comply with the zoning regs and a disagreement with the applicant and the Zoning Enforcement Officer. That's the most difficult kind of appeal. This rule is not a variance rule. The ZBA handles variances; those are not appeals from the ZEO. Variances come in when the applicant decides to submit them and they get heard based on the time frame for public hearings by the ZBA.

There were some questions that were raised by the planning Commission chairman that I thought were really good questions and I thought deserved a couple of minutes. One of those was a question on how the density factors in the new regulations would work with the open space designations and requirements of the planning commission. Most of you know the planning commission in New Fairfield has regulations that allow it to designate up to 20% of a piece of property as open space. Under these new regulations there's two types of new subdivisions which are permitted by the way by the state statute to be put into the zoning regulations not just the planning regulations but the zoning regulations to affect these open space type of subdivisions. Those plans for like a conservation subdivision under 3.7, the state statute allows 33% or more of the subdivision be set aside for open space. Those kinds of subdivisions as I said earlier, the Planning Commission will have two types of authority. The first one will be delegated zoning authority to act on a special permit to allow a conservation subdivision on the piece of property that is involved meeting the requirements of these zoning regulations. The second is just standard subdivision requirements that would apply in addition to the zoning requirements, which are the typical road requirements, drainage requirements and so forth that the subdivision regulations. If there is a conservation subdivision the 20% rule does not apply, it's a 33% rule for open space as a minimum requirement. In that case it doesn't. In a traditional subdivision the planning commission has the same authority it's always had to designate up to 20% open space. So, in this new classification where the developer gets the benefit of having revised lot configurations sizes and footage in order to create greater amounts of open space in that situation the 20% requirement doesn't apply. The second part of that question is what happens in lieu of open space and the answer is in a conservation subdivision it wouldn't apply because the conservation subdivision by definition has to have the open space that is required by these regs. The applicant can choose to come in with a traditional subdivision and have the 20% requirement or after the engineers and site planners look at that property, if they see that it works out better for a conservation subdivision, they may be able to even get a little more density and they will create greater open space areas, then in that case there will be a fee in lieu because they have to have that percentage of open space. I will tell you that in towns that are using conservation subdivisions and I'm not the planner on this but as an attorney that's been involved in it what generally happens is it's pretty nice. With some planning the Commissions are able to link large properties as they develop together so that the open space from one backs up to the open space from another. I know one situation in Woodbury where planners nature center ended up taking that open space and they got three different subdivisions, they ended up with almost 200 acres of open space in that town. The houses were lovely and the development was lovely so it worked very well. The developer is not required to apply under section 3.7 for cluster subdivision. There is an incentive there, and the incentive is if you apply under that section then you can revise your plan and cluster development in a way that you couldn't with a traditional subdivision. I don't know what the planning commission will do here but in towns that I know have this option a lot of times at the beginning in a preliminary planning stage where they meet with the commission informally, the planning commission will ask them if they

come in with a traditional subdivision if they would try to sketch out what the conservation subdivision would look like so that they can look at a comparison. Sometimes when they get sketched out the developer decides he wants to go with the conservation subdivision. So there are some good points, and also the land trusts tend to have much more interest in taking these large unfragmented areas of open space than a lot of little tiny pieces of open space so usually if your counseling a developer on one of these projects it's a good thing, because if that open space stays in the subdivision there has to be a homeowners association to handle it and make sure it's taken care of. If you have a nice piece that land trust will take, then it ends up that perhaps if you have public roads within the subdivision that you end up with the open space not being part of the home owners assoc. but being part of a land trust and it's much less costly to sell & advertise the lots, less administration and beurocracy for the people that live in one of those developments.

The next section, the question was how will these maximum building areas and building coverage be known to builders. The answer is in the zoning regulations. Building coverages are province of zoning not planning and builders always have to go and look at the zoning regulations to see the standards. Those standards are set out in these regulations.

The next question was if the subdivision regulations need to be revised based on these changes to the zoning regulations. Technically the zoning regs trump the subdivision regulations by state statute. So technically, if they were inconsistent in some way, the zoning regulations would trump it. Just in the same way I said this new statute that was passed really trumps our zoning regulations, so there is a hierarchy. There are a couple of areas where the planning commission has authority the zoning commission does not have and that's the fee in lieu of open space and those designations not for cluster subdivisions where special statues that allows the zoning commission to do this and in a traditional subdivision context. However, the plan of conservation and development was adopted through the planning commission's hard work. They started with Planimetrics when that was done, I think it was 2003 or 2002 and there is not a statutory requirement that every provision in that plan of conservation and development must be in the zoning document, but it is an advisory document to the zoning commission. There is a requirement that when this zoning commission revises its regulations it must consider that plan of conservation and development. It was required that this commission look at that plan and try to put together zoning regs that were consistent with it. The Planimetrics planners that started the project worked on the plan of conservation and development it was a document that they worked on and then they started the subdivision regulations and put together the basis to implement the plan of conservation and development. In this case this document definitely implements that. Some of those issues aren't law or legal issues they're really planning issues. They're really about what does this town really want to be, what's advisory, what makes sense for New Fairfield. So I guess my answer is that the plan of conservation and development that was developed by the planning commission was a basic document that was the basis for these regulations. The subcommittee that looked at this did look at the subdivision regulations. There will always be situations where you're changing zones and densities and so forth. The density issues are really the zoning commission's issues but there will be issues for those hidden subdivision regulations that may require some changes.

I have two suggestions and one of them is that I think there really ought to be a joint workshop where the zoning commission sits with the planning commission and goes through how the density works; it's a new system for density. It's not exactly soil based zoning, but it is really based on what a buildable lot is. This comes from areas of Connecticut, other towns have this, areas of Connecticut that set up a system where they know steep slopes and wetlands and other limiting factors make a difference. One acre of land in one part of town might be buildable but one acre in another part of town might be completely unbuildable. So they are not equal, so in order to apply these regulations

starts off by creating buildable areas and from that buildable area density is set. This was again not so much a legal requirement as it is a planning nature that started with Planimetrics and the zoning commission has worked through. So, the short answer is yes, we should probably look at the subdivision regulations to see if there are changes. These regulations will trump the subdivision regulations. Applicants as they always do have to look at both sets of regulations. Right now every applicant has to comply with the zoning regulations for every application that goes to the planning commission they will have to continue to do that. But I think it would be a good idea to look at it and there may be cases where the planning commission may see that there is some good ideas here that you might want to work with the subdivision regulations and carry out.

There was a question about the footnote that I described to you as not being clear enough, that there were relaxed standards for conservation subdivisions and I think we fixed that.

And then, do you want me to response to the planning commission? The regulations were in pretty good order, I haven't seen them I guess maybe the April draft and the August drafts. Everyone has done thorough job on the zoning commission with them.

Faline Schneiderman-Fox

Thank you for your assistance with this, certainly we didn't move forward without it. At this time does anyone on the commission have anything to add? At this time I will happily move to public comment and again if you would kindly come to the front, I'll acknowledge people.

I'm sorry we have some letters to read: There's two letters here from Jane & James McGowan and if you would like to read it into the record you may. Why don't you approach the table since we're already in public hearing.

Jane McGowan

This has to do with the maximum coverage allowed in established subdivisions. My husband and I have lived in Charcoal Ridge subdivision they are half acre lots which were approved by planning October 3, 1959. Setbacks were front 25' side & rear 20'. The zoning commission made my lot non-conforming in May of 1960 when they changed zoning which made it the half acre zone. In May of 1990 the zone setbacks changed again to 40 front 25 & 50 rear. At that time the lots in the subdivision approved by planning were able to revert back to setbacks that were in place at the time the subdivision was approved. However, the courts have made it a law that is not allowed except on undeveloped lots. The commission is now looking to make my subdivision more non-conforming by changing maximum coverage from 20% to 8 % which is over 100% reduction. With this action you as a commission will be taking away a potential buyer of my property. This will also take away the town's potential tax revenue from additions which could make a lot in the subdivision. I have. I have an example, a parcel in the subdivision had coverage already of 12 %. Under the current regulations they were able to do an addition of a deck that brought the coverage to 15% . With the additional deck the estimated value of the property increased by \$24,000, the taxes increased by \$320.00 per year. With the new proposed regulations, their property would be non conforming and over the coverage by 4% and would have to go to ZBA for a variance to be able to expand. If the variance is not granted the owners loses the right to expand and the opportunity to increase their property value. And the town would also lose additional tax revenue. Our request is that you re-think the drastic change in the coverage. We live in a beautiful subdivision where the houses are well kept and the neighbors know each other. We moved to this area because of the neighborhood environment and how the houses were placed. We're long time residents, over 33 years and taxpayers and have the right to improve the quality of our parcel and the zoning proposal coverage change will create a general hardship and likely make it impossible to improve or increase the value of our investment.

Thank you for taking our comments and concerns into consideration as you make your decision on improvements.

Faline Schneiderman-Fox

Thank you. I think there's going to be a lot of comments this evening about our reduction and the lot coverage for the maximum building area, I would imagine I'm going to hear this more than once. It was really under the recommendation of Planimetrics when we started this process that we reduce the coverage. Our concern was especially in the newer districts, the waterfront residential and open space that we contain the impervious coverage and contain the maximum building area specifically so we can mitigate some of the water and the runoff onto these water sources in the area. Certainly I think it's something the rest of us on the commission would continue to address as we hear other comments, certainly I think we have some flexibility here if we found that it's something that will not work for the town we can certainly revise these numbers. I think the goal was to not create a hardship, certainly but to address the issue of lots having impervious coverage that expanded to cover so much of the lot there was virtually no grass left. In some of the teenier tinier lots in our town it's getting close to that. Thank you for your comments.

We have another letter from Mr. Ron Oliveri, would you like to come up and read it or would you like us to read it in?

Ron Oliveri

Thank You. I wrote this in response to a request to get back to you with questions. General comments:

- It now seems new regs would result in smaller homes per sight. If I am correct then the possible consequence may be a redistribution of tax burden and lower growth in the grand list. I think we need to think about this. Perhaps our assessor can be of assistance
- Ability for affordable elderly housing in more areas. Right now I believe it's restricted to certain areas. But could there be consideration to put up housing in different areas.

Ms. Fox...We did

- I have to admit reviewing the regs was a very formidable task please excuse me if I miss something. I think we need a section, maybe it's there and I missed it, on blight to discourage junk and used cars from accumulating on property to the annoyance of neighbors.
- We need clarity and must tighten rules relative to unregistered cars on property which are being sold.
- What section pertains to driveways. We need to be sure emergency fire equipment can travel up and down and around turns.
- What of homes that border on Danbury property line as mine does. Danbury has no minimum setback in the rear, they can literally build to the property line while I'm held to a much much higher standard.
- Section 1.5.2 section b & e refers to dogs barking and loud lawnmowers. Is this section the basis for a noise ordinance which might be difficult to enforce.
- Section 1.5.3 section a refers to goat and poultry farms, what about 1 goat and 1 roster.
- Section 1.5.3 k pardon the vernacular what about all night bars and strip joints. Perhaps they're mentioned elsewhere I didn't see it.
- Section 3.4 Vaughn's Neck. This regulation seems to target just one landowner would like to have Atty. McTaggart comment on that. Can we do that? Or do we need other open space designations throughout New Fairfield for example the Girl Scout property. Could that also come under this regulation? How about land trust property, Pootatuck forest area, hidden valley? This way we're not specifically targeting one landowner.

- Section 1.5.8 and 5.2.5 as I read it and as I look at the maps it looks like our public works dept. might need an exemption under the storage of salt. It looks like a small portion of the property is on the aquifer property and their lot line in front on the road is very small. So there seems to be that consequence where the regulations for the minority property would trump the majority property since they're in 2 zones. I'm just concerned that might restrict the storage of salt that we need in the winter time.
- 1.5.14 refers to a dealer and I'm not sure what that means.
- 7.1 the proposed zoning changes for lake communities. We believe ½ acre zone should be created or less than ½ acre zone should be created to alleviate the cost, the time and the effort of citizens to have to go to ZBA because their properties are still considered non conforming. I believe it was necessary because most of the lake properties not 1 acre or more therefore smaller lots are treated as nonconforming. The regulations do mention expensive engineering surveys, sanitation engineer reports which would be required as well as significant time at ZBA or are these issues covered elsewhere in the regulations and I couldn't find it and again I apologize.
- 3.3.6 should 1 acre setbacks need to be re-thought. Can F40 S20 R60 cause a home to have a much bigger back yard than front yard if a pool is contemplated. Right now my home as an example sits on 1 acre of property and if I've done my calculations correctly an acre is 43,560 sq. ft. My home is 3,350 sq. feet. 8% would be more than that but does this regulation require my sundeck sq. footage to be taken into account? I have an above ground swimming pool, if I take the pool down would I then be restricted rebuilding an above ground pool because it no longer meets the 8% regulation. And if that's the case would I also be required to get engineering reports etc.

Those are my comments and again I apologize if I missed certain sections in your regulations that pertain to these.

Faline Schneiderman-Fox

Thank you what I will do is apologize because I can't answer each and every one of these. I will have to go through the letter at some point one by one and address these. Some of them are easier than others. The goat & Poultry farm we limited the number to 3. 3 and under are pets over 3 you're in a farm. We don't allow night bars and strip clubs the beauty of our zoning regulations if they don't say specifically that we permit them it's prohibited. There's a lot of things we don't list specifically because that would be more voluminous.

Ron Oliveri

If you do list however, some things specifically does the act of listing something specifically and leave something else out does that cause a problem?

Faline Schneiderman-Fox

No that does not. With regard to a noise ordinance that would be entirely up to the town whether or not they would adopt it, they would do that through your board not mine. We don't adopt ordinances through the zoning commission generally. The same is true with driveway grade and that is something I believe was either public works says that they are really the people, the group to address a driveway grade ordinance and a regulation exists that states a 12% grade.

Ron Oliveri

I'm more concerned about the 90 degree turns which would prohibit a ladder truck from getting up.

Faline Schneiderman-Fox

Is that a side purview of us?

Atty. Gail McTaggart

Some towns do it through town wide ordinances for driveway grades because driveway permits come in whether you have a subdivision or don't have a subdivision and whether or not there is a development. These regulations do have some standards for the conservation subdivision. There are some standards for a maximum of 12% grade with 3% at the beginning and increases 30' out in the driveway. So there are some standards, But New Fairfield still has some roads and regulations, I don't know if they've been updated but if you ever going to update them, many towns put the driveway standards right there. So they basically are town wide standards for everyone for every district.

Ron Oliveri

Isn't this the time if it is an important issue we can build it into the zoning regulations

Atty. Gail McTaggart

We probably could build it into the zoning issue if someone is coming into get a building permit and they're developing a new lot it handles that but it doesn't do anything about anything that's existing out there that needs to be fixed.

Ron Oliveri

My major concern is less the grade it's more the turns that are so sharp that our emergency equipment really can't get up some of these driveways.

Atty. Gail McTaggart

Right, but the subdivision regulations on new subdivisions usually have a turn radius standards that they can put into those regulations. It's something we should look at both the subdivision regulations and the zoning regulations and it's a good point

Ron Oliveri

As far as the noise ordinance there was a section that I referred to. It did say noise emanating from the property and leaving the borders of that property.

Usually what happens if there's going to be a comprehensive regulations the state statues that set forth those standards it's very hard to regulate because you have to get somebody with a decibel meter out to the piece of property at the very moment the problem is happening. Almost all zoning regulations in the state have something that looks like this one. If there is something that is so outrageous that's taking place on a piece of property it's obvious that we can do something about it so there isn't any attempt to take the state statutes which exempt out lawnmowers, most weekend kind of equipment that people run that makes those kinds of noise. I know some town have problems with all terrain vehicles and children coming and making a motocross out of an area that's very, very loud. That's very, very difficult to regulate. The nuisance standard in regs, this goes back probably 30-40 years in CT. Almost all Zoning regulations do have some general provision that says it is our goal not to have this kind of a character in our community, so it's setting a character for our community. If we have a commercial use that comes in we can take a look at it.

Faline Schneiderman-Fox

I'd like to address one or two of the other ones that are fairly easy. With regard property bordering on the Danbury property line we can't do anything about what their regulations are. I think you know that,

I wish we could change it for you, but we can't. It would be unfair to everyone in New Fairfield to vary the regulations for people on the New Fairfield side for just along the Danbury border. It would get extremely complicated and I think it would amount to almost spot zoning within the R22 and R88 district. So I don't think we would actually consider modifying our setbacks because you border on a bordering town.

Ron Oliveri

I would not expect you to try to change the Danbury zoning, it's just that folks that do border Danbury they can literally build a shed or a structure on the property line whereas I believe in the new regulations we have to be 34 feet from the rear property line.

Faline Schneiderman-Fox

No it's 10' for a shed, that's what it is now we haven't changed that.

Ron Oliveri

And a swimming pool would be (**Ms Fox** within your setbacks) Regardless, it's still a higher standard but I understand

Faline Schneiderman-Fox

That's why you live in New Fairfield, we have higher standards here.

Atty. Gail McTaggart

That would be an excellent letter to send to the regional planning agency and to Danbury and request they consider zoning regulations along the town line that were consistent.

Faline Schneiderman-Fox

There was one question I had for Atty. McTaggart, an open space question. I would consider, although we're looking at one property in town one property owner, it's actually not one property owner because some of the lots have been subdivided and are owned by individuals, we're look at a very large area of land and specifically semi undeveloped land along the lake. I don't think we consider the open space district for other areas that aren't likely to be developed residentially simply because they aren't likely to be developed residentially. I hope I've addressed some of those

The blight section, we do have a section here regarding unregistered vehicles, but I don't know how does one zone for blight, you know one man's blight is another man's art. I think we'd have to really look at that very carefully. We've had that discussion on the commission. Do we have any other letters that have come in that we would like to address. No. If anyone else would like to come up we'll start on the left and work our way over. Please state your name and I would ask that you try to keep your comment/question under 5 minutes so we can get through this evening and please take the microphone.

Joe Nelson, Chairman planning commission

Thank you for addressing some of the questions we had, but I thought I ought to put into context the reason for our reaction. We undertook this project, which we got maybe 2 weeks before our meeting which we had already had a public hearing. The current draft regulations are about double the length and I asked the commission to read them, both the old and the new so we could make a comparison. We just did not have a lot of time to assimilate. Had we had another option to table or something like that we would have taken it. So, the negative shouldn't be take we disagree with the regulations as proposed as much as we just didn't have enough time to assimilate them and to make any kind of cogent discussion about them. I would suggest that the same thing will happen with the community. I

don't know when these are being proposed or planned, projected to go into affect. But, I would think given that there are other people when we had our discussion that night, people in the audience, some builders in some cases, they knew nothing about this. The concept of density as a way to figure out the number of lots was really foreign to a lot of people. I think it might be prudent in your plan to perhaps have some workshops for the local builders, perhaps people in the communities that are either being re-designated to waterfront communities, or some of these more discrete ones that we don't have yet but are proposed. You might invite people there to work out some of these very discrete issues specific to those communities because doubtless you will get them. The alternative that I just in free thinking is whenever the date is these are to go into affect people who are just trying to get in under the wire are going to blow out the zoning office and the ZBA in terms of getting in under the wire for either non conforming or maybe would not conform in the future.

I did have a question Gail about the density. The R88 2 acre zoning as it's listed now in reality under the new proposal is really 3 acre. You've got to have 3 acres to, it's 3.5 for a buildable that you can put into a lot. You've got to have at least 3 acres to have a building lot. Right now if you have under a 2 acre zone each acre can have a .5 of a house. So, it's really going to take 3 acres to comprise a full lot.

Fred Zering

What size house are you talking about (**Mr. Nelson** R88, 2 acre). What size house would be on that lot.

Jon Nelson

Well your density factor is 3.5 per acre, so that's how you're going to have to figure how many lots you can have in a subdivision. If you've got so many acres you're going to divide that by the density factor (**Ms. Fox** It's .35) That's what you have to use to divide. This takes some understanding. It was that kind of logic that we were going through, maybe that's faulty reasoning. We were trying to figure out what that was. .35 per acre it's going to take 3 acres to make your building lot.

Atty. McTaggart

I might suggest you go through that example.

Jon Nelson

That's one of the things we were struggling with. How do you explain that if we don't explain it ourselves. The other thing is if you factor into that is (.35) you take 20% off the top for open space. That's where I had the question do you still take 20% off the total subdivision or do you still have that right. It seems like you're taking open space in 2 different areas. One built into the lot size or taken off of the amount of lot size and the other off the amount of land you might take from the total subdivision up to 20%. Planning Commission can take 20% but built into that fact of the density factor is already .2 that you would take off from a lot so you really, if you have 2 you're going to be dealing with .7. That's why I said before you really got 3 acres to make a building lot. 3

Atty McTaggart

When you get done with that calculation which is on page 157, there is a diagram of it that has been put together by Planimetrics that shows exactly how it works. When you get done with that calculation, that just is giving you a buildable area and it's saying the buildable area doesn't include the open space because it's somewhere else on the land.

Jon Nelson

But again if we interpret it that way it's doubtless that others may have that first impression too. I think it's a thing that requires clarification. The other thing this is well and good for people who are going to read this all the time, but if there could be a mundane version, an easy to read thing that is something the average person can get into. I know what the problem is but the other part is selling this and have people going along with it. Our commission really didn't want to pass on something, again negative with name only but we didn't want to approve something and really we had no hip behind it and the other thing we didn't want to go negative on it in the sense we disagree with it because we didn't it's just that we really had a lot of unanswered questions and obviously misunderstanding of the way the thing was implied at least as we understood it. I just want you to understand that so you know our intentions wasn't to give you a hard time. We did try but this is like writing a term paper on how much does Argentina weigh and we just couldn't do it.

Faline Schneiderman-Fox

I would like to just briefly address that and I want you to understand that this was a 3 year project in the working and we really were at a position where we were given fairly good planning direction from Planimetrics and then left suddenly in the dark. But we did go through with Planimetrics, and they did hold a workshop with us, I don't remember if other members were there as well from other commissions, but our commission as well had issue with the understanding of this density based zoning calculations and we went through it with them and that is why we asked them specifically to provide an example of how you do it in here because it's not what we're used to here in New Fairfield but it's what people are doing now throughout the country throughout the state in order to keep buildable land in the mix and take non buildable land out of the mix so I think the goal is here is to protect as many of the resources to not but through as many trap rock areas or very steep inclines. To keep as many natural areas natural as possible by offering up these options and these were the options that were suggested to us and they are considered sound zoning practices. Although granted the math is not going to be fun but our zoning enforcement officer is certainly going to be versed in this and any engineer who is working on a subdivision project with a developer who is active in this time in the world in this part of the country should begin to become well versed in this and they should be doing the calculations and they should be presenting it. So it's not something that I imagine that, we'll be checking the math but we won't be doing it ourselves. Other comments, please state your name

John Creasend, 282 Rt. 37

First I say I came to this meeting about a year ago and asked a question regarding some property that I bought and was gold there was going to be planning meetings going on to keep my eye on the paper and citizens such as myself would be invited and just found out yesterday, shame on me for not checking into it that there have been no notices in the paper because it wasn't necessary it only had to go to the clerk. I haven't had a chance to get involved in this like I would have liked to. The property that I bought on Rt. 37, I believe I'm the 4th owner since 1790. I've been working quite a bit on the property and I'm trying to keep it as one property. I'm running up against, eventually one day I would like to build an additional house on the property and I'm running up against this rule that New Fairfield has that states you can only have, no matter how big the property, the acreage you can only have one house on it and 3 times now I've been told well you can divide off a couple of acres or 3.5 acres on the house that you have now and keep it in your name and have 2 adjoining properties. Aside from the duplication in taxes, insurance, utilities all that kind of stuff it seems to me counter productive when somebody is trying to keep a property whole to have this requirement in a town that has 2-3.5 acre zoning. I've been fighting to revitalize this property and to bring it back to what it once was and make use of it in a very green way but I think it's an undo hardship require that property owners that have sufficient acreage are prohibited from building an additional building on the property and it's an issue I would like to have discussed earlier than this but as I said I didn't realize these

workshops were going on. And quite frankly I'm not sure, to me it's an undo hardship and perhaps prejudicial. I'm glad to see counsel is here, maybe someone can respond with something other than it's always been that way. I don't exactly understand how it came about and I don't understand the benefit to the town of New Fairfield. I can see the benefit for someone such as myself being able to keep a property like this in tact and pass it onto a 5th family down the road as one piece.

Atty. McTaggart

The answer is the commission can look at that. The zoning commission can look at how many buildings and houses are on a lot and see if there is an issue. There are some towns, I represent the town of Roxbury that has a lot of open land and they have a regulation that allows 2 houses on a piece of land if the land is very large. They have set limits for what that is. They've had some problems with it in terms of it starting to be a multi family use in a single family neighborhood so it probably makes sense on a very large piece of land. Usually what they did in Roxbury they made sure that if it were ever divided that those houses are far enough apart from each other they could be separated if they needed to be and not be stuck in sort of a non conforming situation later on. So it's something that could be considered.

John Creasend

I'm thinking in sort of the same lines, I would think the town of New Fairfield would want to protect themselves against one up against the other or whatever but to preclude it from being used as a guest house or whatever a caretakers cottage or whatever doesn't seem to be in line with what New Fairfield would like to do with the town.

Faline Schneiderman-Fox

I think the response from commission is that's generally something we could consider. Sorry, if the workshops weren't always publicly advertised unfortunately there's no legal requirement that they were beyond what was posted at the town clerk. We always met our legal requirement. Other Questions:

John McGirk

Good evening, my name is John McGirk, I am president of the Candlewood Isle association that represents the property owners on Candlewood Isle. I wanted to get a sense of what we are now going to be designated a waterfront residential, all the properties on the Isle is my understanding. I would like to get a sense, since the great bulk of these properties are non conforming and how, I think one of the intents of this was to reduce the variance requests that people have. But how is the intent that this is, I'll go through it section by section because I really just want to focus on how a nonconforming property is going to be viewed when it is substantially or structurally renovated. The problem that we have is that many of the houses were built in the 1930's, 40's and 50's. If you go to do any manor kind of upgrade of the systems for energy conservation of the septic is that going to be viewed as a structural or major renovation. And I'll go to the sections. If it is, my understanding reading this in section 7.2 would be is that it's going to have to comply. Also the intent of this thing, why don't we begin with that. The intent section 3.3 page 34. The intent is to reduce the widespread nonconforming status of small residential lots and associated structures in these areas. That's the intent upon which you are going to give variances or you're going to view my renovation, what does that mean?

Atty. McTaggart

May I say something generally about that section? The change that has taken place in these regulations for that section isn't any longer, there should no longer be a requirement that everyone go to the ZBA and look for a variance because there's a special permit standard that's set for altering the

standard regulations in that area. This has been a huge problem in New Fairfield and it's something that's amazed me for all the years. What happens is the Zoning Board of Appeals in Connecticut for every town under the state statute has a very strict test for granting relaxation of the zoning regulations and that's that hardship, exceptional difficulty standard. It has to be so extreme that you almost can't use your property and it has to take almost all reasonable use of your property or have no reasonable use of your property. Most ZBA's and I think New Fairfield does this too. Most ZBA's in most towns have done their best to try to make that work for their community and grant variances not to everyone that comes in the door but to really try to get the least amount of variances possible and so forth. But it was sort of putting a square peg in a round hole or opposite it just wasn't working in New Fairfield in the waterfront areas. So, if somebody has a piece of property that's not been developed before, if it's a vacant lot or a vacant area in that town there needed to be a standard that set consistent with there has to be a septic system, there has to be a well, it should be the best plan we can for preservation of Candlewood lake and so forth. But if you have existing structures, then now there is actually a kind of permit you can go and get from the zoning commission that will give you relief from the regulations. But, in granting that relief since we're talking about usually narrowing setbacks, bringing houses and structures closer to the neighboring property line there is a right to have a public hearing so the neighbors can come and make sure that everything is looked at and the facts are well represented. So, these regulations do take this out of the variance mode and put it into a standard and the standard for granting a special exception is to look and see if it's in harmony with the community, to see if it's going to have some delictorious impact in a very negative way on a neighboring property, to see if it can work within the community and to set some kind of outside limits. Now the planning part of this that's not the legal part of it is where those limits are. That's not my job, that's this commission and the planning commission's job to figure out where those limits are. It provides a way to get an approval on these houses that are in this area that never existed before. It puts a reasonable standard, where if you meet these regulations and meet the standards you can get an approval, which is the standard for special permits. If the standards are met in the regulations then the commission will approve it.

John McGirk

Being particularly focused on Candlewood Isle, we have no undeveloped lots left. We've declared a conservation easement on all open space. So that's not the issue. The issue for us is all the lots that are going to be developed have been developed. The question is I wonder why 3.31b is there. Why does that exist. Why is that intent. And if I were on one of the commission s that says okay is this in harmony etc. should I be considering this?

Faline Schneiderman-Fox

I'm not sure what your question is

John McGirk

The question is if you're saying that the intent of this is to reduce the nonconforming status of small nonconforming lots you're referring to only undeveloped.

Atty. McTaggart

I'm just saying there has to be a standard because somebody can tear a house down, put 2 lots together and build something. There has to be a standard you start with and then it's altered under this regulations and what this does it recognizes "b" is exactly what you just came up and said. This recognizes that there are lots in that area that are nonconforming and we're going to allow those to become, we're going to allow the standards to allow those to become usable without having to go get a variance.

John McGirk

Does that refer to lots that have been built on?

Atty. McTaggart

It refers to all the land in that zone.

John McGirk

Let's go to 7.23b and this is where it kind of says to me, page 126, where it's referring to waterfront residents, nonconforming. Such a non conforming use, okay so lets just say probably 80 or 90% of our units are nonconforming and if you go to b, such non conforming use shall not be structurally altered, redisrupted, extended I don't have a problem with or enlarged unless alterations or reconstruction conform. So what I'm asking is what does that mean. Many of our homes in order to improve them, don't have foundations, they have to be structurally altered. Typically what has occurred in the past, when I was in front of this commission this year, I went to renovate my home and found out there was no foundation I had to tear part of it down and I had to come back in. I was stayed within the drip line, that's typically the way that they grant things as long as you don't expand it and I wasn't expanding it and it went right through. I now look at this regulation and say would I have been, would that have been treated the same under this reading that I was treated here 3 months ago. Which was fine.

Maria Horowitz, ZEO

That regulation hasn't been changed, it's the same regulation we have now.

Atty. McTaggart

You have to look at page 37 because the standards for the WF district reduce, allow the commission, not using the variance provision that you just looked at in 7.23 allow the commission within it the regulation to reduce the setbacks. The front yard from 40 to 20, the side yard from 20 to 15, the rear yard from 50 to 30. That's the conforming way to do this.

John McGirk

I'm asking for clarification because I want to know how is this going to be interpreted if I just read it. I'm not exactly sure. What about the 75' setback on the water? Many of our properties are non conforming to that at this point in time. We're abutting the 440 line.

Faline Schneiderman-Fox

What does the regulation currently read, Maria with regard, I think we currently have 75' from the 440 line.

Maria Horowitz, ZEO

The 440 line is generally the property line. Some properties own into the lake but generally it is a property line. Most likely it's the rear property line.

Faline Schneiderman-Fox

I can see where that would be a problem.

John McGirk

All I'm trying to figure out is what's the marching orders for the commission going to be when people come in and say I don't want to extend I just want to renovate this.

Faline Schneiderman-Fox

Under 3.3.7 items 1,2, and 3 you did see we are permitted to provide reduction of the setbacks front yard and rear and under 3.3.3b on page 35. Modifications of standards are to provide flexibility in modifying existing structures while protecting the quality of service water and protected water resources the commission may modify any minimum building and structure setbacks specified in section 3.3.7 and/or any maximum building area specified in 3.3.8 for any addition to an existing building or structure provided that and you have to meet the regulations in order to mitigate storm water and additional water runoff into the lake which is what we're ultimately trying to protect.

John McGirk

That gets me to a different question. If I'm not extending beyond the drip line, in other words it's exactly same but I have impervious surfaces currently there in excess of the 12% do I have to then go, does that piece of the regulation now come into effect. That I have to essentially, say I'm 14% do I have to then get a storm water management plan?

Faline Schneiderman-Fox

I believe so, if you exceed the 12% yes.

John McGirk

So in other words regardless of what's existing there at the current time I have to go get an engineer even though I'm renovating my current house.

Faline Schneiderman-Fox

If it's an addition, alteration or an enlargement that results in an increase

John McGirk

No it doesn't result in an increase, then I don't have to. I just want to make sure that we're not getting caught up in the impervious. If I'm not enlarging the drip line then I'm ok with even exceeding the impervious surfaces.

Faline Schneiderman-Fox

Existing, that's my understanding yes. Any addition, alteration or enlargement that results in an increase, if you're not increasing

John McGirk

Part of this is it's not totally clear of how this interpretation of again the impetuous that you want to give to the commission when it looks at whether this is a proper, whether this is meeting the neighborhood, whether this is proper, it wasn't hard and fast, that's the problem.

Faline Schneiderman-Fox

I believe it was hard and fast it says any addition, alteration or enlargement that results in an increase. We read these very carefully when we have an application in front of us because they are complicated regulations.

Jin Mitchell

We don't really interpret, we read what it says and enforce what it says.

John McGirk

Is there any acknowledgement that people that own beyond the 440 line in fee don't have a lot line it should be wherever there lot line is.

Faline Schneiderman-Fox

I don't think we did discuss that.

John McGirk

By definition it's not

Atty McTaggart

This isn't a legal issue but we could think about the 440 line and the fact that some of the lot lines are 440 and some are not.

Faline Schneiderman-Fox

It's my understanding that based on precedence set in the town of New Milford, tell me this is a legal issue or a zoning issue that anything below the 440 line was not subjected to the regulations of the town you are abutting, so therefore our regulations do not pertain to anything below the 440 line.

John McGirk

But you use the 440 line to make the lot line which affects the density, which affects the impervious coverage. My property actually extends 1,500 feet into the lake. Actually my back yard is below the 440 line, there's a whole group of people covered like that.

John Moran

You're saying you own 1500 feet into the 440 they can not control. (**Mr. McGirk** They have flowage rights) You have property rights. If we said to the property line, you're fine. Then the 440 doesn't apply.

Bob Scandar, Candlewood Isle

I noticed in the regulations here, I thought originally since John mentioned that most of the lots are nonconforming frankly within ¼ acre give or take that the original zoning requirements were very restrictive and I see these new ones now for waterfront I think they're even more restrictive so I consider it a great hardship. I do consider it unreasonable because I did some research on the neighboring towns. I excluded Sherman because Sherman just instituted 160,000 sq. feet of property, 4 acre zoning. Danbury here, 8,000 sq. ft and under ¼ acre. I'll go front, rear and side setbacks 20, 30, 5 and 8 with a coverage of 30%. In fact if I go to 20,000 square feet, almost ½ acre I'll go to 30, 35 and 15 sq. ft. 20 % coverage. Now you've got, Danbury actually does have a waterfront zone RR10 Front 40, rear 25 and side 8 feet 30 % coverage. Brookfield they call 7,000 Sq. Ft. R7 which is under ¼ acre they go 45, 10 and 10 25% coverage and then they jump up to a full acre. New Milford goes 8,000 sq. ft. 15, 25 and 10 and they have no maximum coverage on a residential lot surprisingly. Some towns, one in particular, Westport they actually have a nonconforming lot . And I'll say here "A new building structure or addition to an existing structure on a nonconforming lot shall comply with all applicable requirements of the zoning district in which it is located except for setbacks. Here we go about ¼ acre 30 rear is 25 side. ½ acre approximately I go 30, 25, 10. and I know you can go up to 50 with side setback which you put there as a special permit. They're going from ½ to a full acre. So, I'm saying if you're in the towns and neighbors around here I think it's very very restrictive and proof lies I think in this copy. What the other towns have done, Westport I don't have a copy but you can get it on their website. You mentioned a special permit here which I wasn't aware of to give people, you mentioned that, I think the quote was in harmony with the community and what is considered reasonable. Well is the zoning board actually, who determines what is reasonable and harmony. I really think and I stress that as it was brought up earlier that you should have a meeting, we could meet at the Candlewood Isle club house and bring in an advertise global waterfront

community and let us determine and have a lot say what we consider is in harmony with our community not some people that don't live there and I say that respectfully cause all opinions do differ. You have communities and what they consider cluster density, multiple homes or condominiums or co-ops where people live in very close environments they consider harmonious or in harmony with the community different from our community where we have many many small lots but we're on the waterfront. So I suggest you change these things, I would respectfully add that you hold a meeting for the waterfront community, ours and all the others and get their input to what they think is reasonable One example and know a landowner tried to do is get a two car garage and for safety reasons he wanted to bring it up to the road where the setback for a garage is 3-5 feet. Well I know the town, he went through a lot of agony to show them the houses that have these garages level with the road but his goes down a steep driveway so zoning appeals let him put it on the front of the house which was set back oh I guess about 25-30 feet . But as far as safety in a bad condition of weather such as ice or snow has a problem getting out and of course he goes in there he can slide down and hit the garage door. That's the way the community developed and that's the way the community is so I would say one of those might be an exception to that where you have a single digit setback for garages in our community which certainly might be applicable in another community. So I wish you would consider all those things and please have a meeting and if you work it up get the input from the people that actually live in these communities and let them decide or at least have some input.

Faline Schneiderman-Fox

Thank you. Any other comments

Gary Mead, Rock Ridge Court, New Fairfield '

I'd like to comment on some sections of the proposed regulations. The first one is on access ways. Section 7.3.2b. I see the new regulations allow possible 3 lots served by an access way and I think the subdivision regulations allow the same thing. What concerns me, I think that's a good thing it could cut down on the amount of town roads that might have to be built to service a certain number of lots but the width of pavement required to serve 3 lots is 25 feet. TO me that's excessive. Even the town subdivision roads the standard with is 24 feet. To have to build a driveway 25 feet to serve 3 lots seems to me would be all sorts of damage to whatever grading might have to be done to accomplish this and I can't see that it's necessary maybe that the fire department had something to do with that. I mean you take roads that have been improved by the town, like Shortwoods road or Beaver Bog a lot of them they're only 20 feet wide so to have to do an access way 25 feet wide in pavement just doesn't make sense, 18 would certainly be enough and of course I realize the subdivision regulations would have to be changed because they have the same 25 feet and were probably advised by the same people that that was desirable but it doesn't seem to make sense to me.

Also on the buildable area I looked through the new regulations and that example in section 9.3 to try to calculate building density. Point 7 for 1 acre zone and .35 for 2 acre zone to me that seems to be fairly consistent with what someone would have to do to provide 20 % open space and a certain amount of land for roads but what I think is not really addressed in that example and even the little picture on 157 shows the sample parcel a little section of wetlands and a stream but yet when the calculation is done the way I read the regulations you would have to subtract that area of wetland from the original parcel area as you would have to subtract any slopes over 25% or 100 year flood plane and come up with your final. That would have to be subtracted right form the beginning so that 10 acre parcel that's shown on page 157 would really I think whoever did that sample calculation should have initially take the 10 acre parcel and had some area designation on that sample wetland and then deduct that and maybe come up with say 9 acres and then take .35 times that if it were 2 acre zone or .7 if it were 1 acre zone to get the number of dwelling units available. That makes a

huge change. Using the new density factors .7 and .35 to me don't with the 20% open space requirement don't change the density much but to say that areas with 25% slopes. Wetlands I could see or flood planes but in this town of New Fairfield we're in the foothills of the Berkshires we have a lot of land that's over 25% slope. I've built on a lot of lots where I've had 1/2 of the 2 acre lot 25% slope but I've been able to design a septic system and reserve area build a driveway at 12% and find a nice house sight and never have to use the acre of that land that was 25% so this is really going to affect the amount of lots that can be obtained from a parcel unless it's an uncommon parcel in New Fairfield that's flat as a pancake with no wetlands. I'm not sure that using that 25% designation having to subtract any land that is 25% area or over right from the beginning before you start using the density factor that's going to very much limit how much land can be developed in this town.

One other thing on the revisions here in the aquifer protection zone I see there's a section here on septic systems in the aquifer protection zone sanitary wastewater discharge to an onsite septic system shall not average more than 200 gallons per acre per day in the aquifer protection overlay district. I'm not sure because I've just seen this tonight but I think the state health department uses a figure of about 100 or 150 gallons per bedroom per day as a basis of design so that would be in a 1 acre lot in the aquifer protection overlay district you may not even be able to put a 2 bedroom house. I'm not positive of that amount per day that the state health dept. uses per bedroom but I think that's right.

Thank you very much.

Faline Schneiderman-Fox

That's a number we can certainly look into, the Health Department. I think when we crafted the regulation regarding the density factor it was specifically to cut down on the number of acres of land that is very environmentally sensitive that is being developed. We felt that it was creating more run off than necessary. It was creating the zig zag driveways that other people are actually concerned with and some other things that maybe weren't as desirable for health, safety and welfare.

Jeff Main, Shortwoods Road, New Fairfield

I applaud you for getting this done. On your open space district I read that you do site Vaughn's neck but I would encourage you to include all ridge top highland areas in town for open space designation. The federal government has recognized the highlands, we're one of the few states that is part of the highlands protection act that's being significant habitat. We all know that watershed starts at the top anything happens up there affects everything below it so I would encourage you to include that in your open space zoning.

I have a question about the statement about signing off on storm water management and I just want to say the Wetlands commission has been addressing storm water management for quite a few years now and I just want to make sure that you would work in step with the commission that sees the application before you do by your recommendation. We do a lot of work trying to make sure that storm water is addressed, many of the things you have espoused in your document are consistent with the things that we ask for but just so it's not one set of stipulations put on the application by the wetlands commission and they may change when they come to zoning. I would just like to see them run in concert. I think you're aquifer protection zone is great the way it is.

Thank you

Faline Schneiderman-Fox

Thank You. I have a question for you actually, you talked about the highland areas and I'm aware of the ridge, track ridge and regulations for such like that, do we actually have any kind of mapping on these highland areas?

Jeff Main

You can go to HEVCO to secure that information.

Atty. McTaggart

The coordination question regarding wetlands, obviously there's some areas, there might even be a piece of property with no wetlands on it that the commission still needs to look at storm water management and drainage. Doesn't happen very often in this area but I suppose it's possible. The applicant has to still first apply to wetlands before they apply here and whatever standards and requirements are set forth in that approval have to jive with what happens at this zoning commission level because all of those requirements have to be met, both the wetlands regulations and the zoning regulations. And what we did we just incorporated 2004 guidelines and some of the NEMO project requirements which we know are consistent for both commissions. And engineers that are working on applications if they design it for wetlands it should work when it comes in to the zoning commission.

Faline Schneiderman-Fox

Thank You. Other comments and questions.

Steve Hanrahan, Colonial Road, New Fairfield

My concern is over one of the parts of the sign regulation, I guess kind of a pet peeve I've had over the years. Listening to some of the other comments tonight it might seem inconsequential but my main concern is allowing internally lit signs. The regulation starts on page 102 and I would ask that sometime before you guys vote on this just take a drive on North Street up to New Fairfield and just look at the signs as you get into New Fairfield. Also look at that little sign we made up that's down in the zoning office and see what type of signs you prefer. My intent in this whole thing is to try and get you to eliminate internally illuminated signs. I think a lot of you share that feeling and looking at some of the sub paragraphs of what you've written brings that out. If you look at the bottom of page 102, under f under signage to "encourage the design that preserves the historical values of the town with minimum clutter" I was trying to figure out different words for clutter so after doing that I thought maybe what was left to say was "to encourage the design that preserves the historical values of the town" It just kind of leave it at that. G also kind of backs that says to provide fair and equal treatment of all sign users. I think New Fairfield is kind of unique in that it's not a big spread out town, it's not like Danbury commercial district is kind of limited to one small section. It's not the guy with the biggest, brightest sign that wins the most customers. Most of the people in New Fairfield know where most of the shops are. To me it looks a lot nicer to have the up lit signs like food center say versus what Shaws has. And things seemed to be going pretty well till the Shaw's development came in, I think that was due to the , in my feeling even though internally illuminated signs were allowed in the old regulation we're dealing with developers who live in the town had some taste and cooperated with the zoning board even though they could have had any kind of sign they want but they chose to have conformity in the signs and not all different kinds of colors. And also to encourage signs that are well designed, pleasing in appearance with good design relationships, spacing and location. And getting back to a comment, everyone has different tastes and what they like. I think this could be accomplished easily if you choose to do that. It would just require changing a couple of words. 6.3.4 pg. 105 we did prohibit interior neon signs which I think is going to cause probably a lot more flack. One of the changes that could be made on page 106 6.3.5 prohibited signs and graphics just add I. say internally illuminated signs and that would also be prohibited. And if you want to change 6.3.10b just eliminate the word internal. I know this might seem inconsequential but when we're talking about

keeping the character of the town I think that is a big factor for people coming into town or people who live here.

Faline Schneiderman-Fox

That would also require the elimination of 6..3.10b2 which specifically addresses how to reduce the glare from internally illuminated signs. I don't know the commission feels about this. I would love to get rid of internally illuminated signs, it wasn't necessarily that my opinion was in the majority though so I guess that's something that the commission will have to discuss amongst themselves but I would not disagree with what you said.

Jim McAlister

I totally agree with all the thoughts that were just voiced. Just a couple of questions of the board. I'm unclear on the process of going forward and a number of people have recommended we have some sort of community input into this beyond this meeting. I certainly hope that occurs. I was really disappointed the number of people are here this evening. There are almost more board members than citizens. I just don't think the word is out, I think there is enough in the new regs that would prompt people to be concerned and be here, so what indeed is the process beyond this meeting.

Faline Schneiderman-Fox

To answer your question I don't think the decision has been made what the process will be beyond this meeting. I think the commission will need to discuss the comments that came to us tonight to determine if we wanted to move forward with the regulations as is with some minor modifications or to withdraw from the public hearing process, stop and make some major revisions with more input from communities and as much as the offer to use the clubhouse was very kind it couldn't happen because when we meet as a commission we have to be in a public structure that is accessible to everybody. So, that would be one of the hurdles we would have to cross if we were to consider that. I can't tell that there is a definitive process at this point.

Jim McAlister

I guess what sort of unnerved me was the final draft and it mentioned that this weeks paper that this was like the final session or whatever. So, I would urge that you get as much community input as you can before this goes to the press. Ron Oliveri mentioned ½ acre zoning has that been considered at all in lieu of the full acre given the number of variances. There was no response to Ron and I just thought that might deserve a response.

Faline Schneiderman-Fox

Honestly, no. The limiting factor is we don't have, one thing the communities in Danbury all have that we don't are sewer systems. Most of the communities in Danbury do, we don't so you need a septic on each individual lot so we did not consider creating a ½ acre district.

Jim McAlister

His comment I thought related to the number of variances that have to be granted given that there are so many non conforming parcels. Also I saw one reference to this special permit but I didn't see any extensive discussion on how that process works relative to seeking a variance. Is that in writing in these regs.

Faline Schneiderman-Fox

There are 2 different processes. The special permit process is outlined within these regulations. When one seeks a variance that's not through the special permit process, that's through the zoning board of appeals and that's a different commission.

Jim McAlister

Where is the reference to the description on the special permits. I just saw it referenced once but it really didn't describe the purpose and I think all those that have read the document were concerned it was narrower than the provisions before.

Faline Schneiderman-Fox

Are you referring to any specific zone or just the special permit process in general

Jim McAlister

In helping those that are non conforming to overcome the variance problems.

Faline Schneiderman-Fox

I don't think we've changed our special permit process under section 8.2. It would still be, there's a section 8.2 special permit applications, the intent and purpose, general procedure, application requirements, review by the commission, change in plans, time limits and effective date., zoning certificate of compliance, obligation to complete improvements, appeal, it's 5 pages it's pretty well outlined and I don't believe we've actually made any changes.

Jim McAlister

Is it the intent that those existing provisions will accomplish the variance issues on these non conforming properties.

Faline Schneiderman-Fox

Only within the waterfront residential district.

Jim McAlister

Okay it's what exists today is meant to be the solution to the waterfront district issues relating to variances.

Faline Schneiderman-Fox

Currently we do not have a waterfront residential district and everybody within the lakefront community, not everybody, but lots that are pre existing non conforming or that are non conforming ends up in front of the Zoning board of appeals. We have created a new district with the intent to reduce the number of applications that have to go to the ZBA and instead they would come in front of the zoning commission by special permit. But it's only for the waterfront residential and we would be have the flexibility to reduce setbacks, and coverage based on specific things that are outlined.

Jim McAlister

Is this new flexibility

Faline Schneiderman-Fox

Yes

Jim McAlister

So same requirements just new flexibility within that district.

Atty. McTaggart

It's really not the same requirements. The standard for granting a variance is a very hard difficult standard. A special permit is a use that is permitted under the regulations if you meet the

requirements which are mostly about in harmony with the neighborhood, not causing a negative impact on your neighbor, utilizing the property, bringing in plans that show this. Because the lots are small there is always a health department approval that has to be had on those no matter what you do the health department would control that. There is a recognition that especially in the waterfront area that there has to be a plan that also works with the lake protection. It's all of those factors that have been put into this. But it's a very different process the variance, they both require a public hearing and an application to a commission, but the application to the ZBA is under our state statute is a very harsh standard. The special permit is also a state statutory process where we allow exceptions to the usual standards when certain standards are met. That rule is really the use is fine in the zone, no problem with it, it's just how it's carried out if you're going to reduce setbacks, reduce areas, reduce frontage the commission gets to look at the neighborhood and see if it's in conformity with it. Where a variance you can't use the fact that everybody else's property has something that looks like yours as the basis for a variance. For a special permit you will be able to use that everybody else's property looks like this as a basis for granting the special permit. It's a much more relaxed standard for that zone and that was the purpose for it to try to fix what is happening. The ZBA was never meant to create zoning. Usually there are standards that are set in the zoning regulations and special permit standards for uses that we think are consistent with the zone but need to be paid attention to what's happening to neighboring properties, particularly some of the smaller lots., but it's allowable. So this is going to allow uses with much more lenient setbacks.

Jim McAlister

And just one final question With regard to coverage, the reduction from 20 to 8, it sounded like that was going to be a subject of discussion. I just want to make sure it gets aired and perhaps you all can comment on why the reduction and why the offer of flexibility which I think is probably pretty important because I would think when people begin to understand what's proposed I would assume there might be some voiced concern throughout the community.

Faline Schneiderman-Fox

Thank You. Are there other comments or questions at this time from the audience. Your question was what the motivation was behind the reduction in the maximum building area. I think when we started this and that was recommend to us that we reduce these numbers to what they are by our planning consultant at the time that the emphasis was on really insuring we're protecting the environment by reducing the coverage on a lot. In looking at this and realizing what it may in practicality end up doing to some lots I'm wondering if we could maybe modify this to perhaps reduce the impervious coverage, or to somehow make it so there isn't quite as much of a burden on the smaller lots in town that fall outside of the waterfront residential district. While still accomplishing what we want to accomplish which is to not see the lots, and there are some lots in town, that are the size of a postage stamp with a house, a 3 car garage, 2 sheds, not legally I might add and pavement and it is not a good thing for the environment and we do need to do something about it. Perhaps we didn't accomplish what we were hoping to by reducing the maximum building area and we should look at perhaps a different calculation of that. I think that's something the commission will have to discuss further. At this point I think there are so many outstanding items we would make a motion to continue the public hearing or does everybody feel we've had enough input and at this point we could make some modifications.

MOTION

Mr. Moran motioned to continue the public hearing. Mr. Mitchell seconded the motion. Any discussion on the motion. Vote taken.

Joe Letizia

Yes

Jim Mitchell	Yes
John Moran	Yes
Faline Schneiderman Fox	Yes
Fred Zering	yes

Motion carried unanimously.

Faline Schneiderman-Fox

Public hearing will be continued to another meeting date, what would that be, we need to find out when this room will be available again and the date will be advertised.

The board is going to pursue discussing the comments we received this evening at our regularly scheduled meeting. It will not be open for public discussion, only amongst the board and we will at that time hopefully have a better idea when we can continue the public hearing.

MOTION

Mr. Moran motioned to adjourn. Mr. Letizia seconded the motion. Vote taken.

Joe Letizia	Yes
Jim Mitchell	Yes
John Moran	Yes
Faline Schneiderman Fox	Yes
Fred Zering	yes

Motion carried unanimously.

Meeting adjourned at 10:05 p.m.

Respectfully Submitted

Lyn Sheaffer, Zoning Commission Secretary.