

TOWN OF ELLINGTON

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**PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES
WEDNESDAY, APRIL 22, 2020, 7:00 PM
ZOOM MEETING**

(IN-PERSON ATTENDANCE NOT PERMITTED DUE TO COVID19)

MEMBERS PRESENT: Chairman Arlo Hoffman, Vice Chairman Bill Hogan, Regular Members Robert Sandberg, Jr., F. Michael Francis and Michael Swanson, and Alternates Jon Moser and Keith Durao

MEMBERS ABSENT: Regular Members Sean Kelly and Ricci Hirth

STAFF PRESENT: Lisa Houlihan, Town Planner and Barbra Galovich, Recording Clerk

OTHERS PRESENT: Lori Spielman, First Selectman; Everett Skinner and Chris Skinner of Barnyard, 120 West Road; Sam Schneider and Tim Schneider of Earthlight Technologies, 92 West Road; and John Colonese, Assistant Town Planner Enforcement Official.

I. CALL TO ORDER: Chairman Hoffman called the meeting to order at 7:10 PM. Chairman Hoffman explained that he will stay seated for the business item, noting his conflict of interest was removed when the property sold.

II. NEW BUSINESS:

1. S202001 – James A. Moser, owner, Everett Skinner IV, applicant, request to modify condition of approval (dated February 24, 2020) regarding fee-in-lieu of open space associated with a two lot subdivision of property located on the west side of Route 83 (West Road), APN 037-003-0000, in a PC (Planned Commercial) zone.

Lisa Houlihan, Town Planner, explained Section 4.18 Open Space of the Ellington Subdivision Regulations states “The commission has found that development of land for residential or business use will cause an increase in the population, the intensity of land use, and the need for open space, parks, or playgrounds to serve the residents of the town.” She noted the recently approved subdivision for West Road has a condition of approval requiring a fee-in-lieu-of (FILO) to meet open space requirements. An appraisal was recently presented and suggests the fair market value (FMV) of the land prior to division is \$380,000. (FILO is 10% of FMV = \$38,000, or \$19,000 per lot).

Ms. Houlihan questioned the merits of the FMV since valuation is attributed to outdated zone classification showing the rear land zoned residential and does not account for the zone change approved in December 2019 classifying the entire parcel as PC-Planned Commercial. Ms. Houlihan explained when considering the basis for open space requirements, it's clear that residential development will increase population and the need to preserve land for recreation and conservation purposes. Whereas commercial developments do not generally increase population, but tend to intensify activity where goods and services are provided. In reviewing the history of subdivision approvals dating back to 2000, only one open space proposal can be readily found for non-residential development. In this case, the subdivision was for industrial land and required a FILO to meet open space requirements. If the commission is inclined to waive the FILO for this development, the fair and equitable approach would be to amend the subdivision regulations removing the requirement for all commercial development.

Everett Skinner of the Barnyard said on February 4, 2020, they met with the Conservation Commission and they ruled the parcel didn't meet any of their requirements for open space land set-aside making this a reasonable request to waive the FILO for their property. He mentioned the State of Connecticut regulations for open space, noting the requirement is for residential developments. He also noted that economic conditions are changing rapidly.

Arlo Hoffman, Chairman, stated the commission needs to be consistent with all the businesses in town when discussing open space. Alternate Moser said his father sold the Big Y East property and was not required to pay any open space fee. He would like to see the Subdivision Regulations changed. Vice Chairman Hogan and Commissioners Francis and Durao agreed the commission should not create exceptions to the Subdivision Regulations and are not in favor of approving the waiver. Commissioner Sandberg suggested the Economic Development Commission and the First Selectman's Office be conferred with and suggested FILO be addressed on a case by case basis. He also noted he is not sure that FILO should be addressed through the Planning & Zoning Commission. Commissioner Francis and Commissioner Swanson agreed the Town should not discourage new businesses to come to town by requiring additional costs. Chairman Hoffman said businesses pay higher taxes than residential developments which increase density.

Commissioner Sandberg asked the commission to consider allowing the land in the back as an exception for further development. Sam Schneider explained as a business owner they would like to start the project as soon as economically fit and have one location for Earthlight Technology rather than two locations. Tim Schneider explained the waiver would help them move their whole business into one location and stop renting 5,000 sf in Vernon. Chris Skinner mentioned that in the past 20 years only one other business has requested the exception and if the property wasn't being subdivided they would not be required to meet the FILO requirements.

Everett Skinner asked the Commission if they would consider reducing the FILO to 5% rather than the 10%. After brief discussion, some were in support of reducing the FILO to 5%.

MOVED (SANDBERG) SECONDED (SWANSON) TO APPROVE REMOVING THE FEE IN LIEU OF OPEN SPACE REQUIREMENT AND FAILED (YEA: HOFFMAN, SANDBERG, SWANSON AND MOSER; NAY: HOGAN, FRANCIS and DURAO) FOR S202001 – James A. Moser, owner, Everett Skinner IV, applicant, request to modify condition of approval (dated February 24, 2020) regarding waiving the fee-in-lieu of open space associated with a two lot subdivision of property located on the west side of Route 83 (West Road), APN 037-003-0000, in a PC (Planned Commercial) zone.

The commission discussed rather than change Section 4.18 Open Space of the Ellington Subdivision Regulations, they would consider accepting a 5% FILO based on the fair market value of \$380,000.00.

MOVED (HOGAN) SECONDED (FRANCIS) AND PASS UNANIMOUSLY TO APPROVE FOR S202001 – James A. Moser, owner, Everett Skinner IV, applicant, request to modify condition of approval (dated February 24, 2020) from 10% to 5% fee-in-lieu of open space requirement associated with a two lot subdivision of property located on the west side of Route 83 (West Road), APN 037-003-0000, in a PC (Planned Commercial) zone.

III. ADJOURNMENT:

MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO ADJOURN THE PLANNING & ZONING COMMISSION REGULAR MEETING AT 8:30 PM.

Respectfully submitted,

Barbra Galovich, Recording Clerk