

May 1, 2007

MEMBERS PRESENT: Mr. Charles, Ms. Gager, Mr. Rimsky, Mrs. Roberts

MEMBER ABSENT: Mr. Frank

ALTERNATES PRESENT: Mrs. Braverman, Mr. Carey, Mr. Fowlkes

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Szymanski, Mr. Arturi, Mr./Mrs. Markert, Ms. Phillips, Mrs. Canning, Mrs. Carey, Mr. Smith, Mr. Shapiro, Mr. Boling, Mr. Shaw, Mr. Sonder, Mrs. Pasch, Mr. Neff, Mr. Mack, Mrs. Hardee, Mr. Connolly, Ms. Dupuis, Mr. George, Mr. Meyer, Residents

PUBLIC HEARINGS

Brown-Carroll/41 Buffum Road/2 Lot Resubdivision

Mrs. Roberts called the public hearing to order at 7:35 p.m. and seated Members Charles, Gager, Rimsky, and Roberts and Alternate Fowlkes for Mr. Frank. She then read the legal notice published in **Voices** on 4/18 and 4/25/07 and the list of documents in the file.

Mr. Szymanski, engineer, said he had received a copy of Mrs. Hill's updated review of the application, dated 5/1/07. He responded that the property owner did not want to proceed with a lot line revision unless the application was approved and so asked for an approval with the condition specified in Mrs. Hill's review. He also reiterated that he had submitted a written request for two waivers of the Subdivision Regulations; Section 4.4.11, the state plane coordinate requirement, and Section 4.7.2, map scale, and noted both Health and Inland Wetlands Commission approval had been received.

Mrs. Roberts read the 4/21/07 site inspection minutes.

Mrs. Roberts asked for questions and comments from the Commission. Ms. Gager said the application was clear and straightforward.

Mr. Szymanski briefly reviewed the residential density calculations and noted family members of the property owners were present.

Mrs. Pasch, adjoining property owner, said she approved of the proposal.

MOTION: To close the public hearing to consider the application submitted by Mr. Brown and Ms. Carroll for a 2 lot resubdivision at 41 Buffum Road. By Mr. Charles, seconded by Ms. Gager, and passed 5-0.

Mrs. Roberts closed the public hearing at 8:46 p.m.

Young Elliot's Farm, LLC./110 Calhoun Street/2 Lot Subdivision/ Continuation

Mrs. Roberts reconvened the public hearing at 7:47 p.m. Mr. Charles recused himself. She then seated Members Gager, Rimsky, and Roberts and Alternates Carey and Fowlkes for Mr. Charles and Mr. Frank.

Mr. Neff, engineer, represented the applicant.

Mrs. Roberts read the list of documents that had been submitted since the last meeting, including a letter from Mr. Shapiro dated 5/1/07.

Mrs. Braverman arrived at 7:51 p.m.

Mrs. Roberts read the following documents into the record:

- 1) letter from Atty. Miles to Mrs. Hill, dated 4/24/07 regarding the review of the proposed language for the conservation restriction,
- 2) email from Mr. and Mrs. Greenfield to Ms. Roberts, dated 4/29/07 expressing concern about over development of this historic area,
- 3) letter from Mr. and Mrs. Pepler, undated, strongly opposing the application because they felt it would undermine the historic district and would be environmentally disadvantageous to the community,
- 4) letter from Mr. DiBenedetto to Mrs. Hill, dated 5/1/07 in support of the application, but expressing concern about the issues raised by Atty. Miles, and
- 5) letter from Atty. Litwin to Atty. Miles, dated 5/1/07, responding to Atty. Miles' 4/24/07 letter.

Mr. Shapiro, part owner of the property, said his attorney had not been able to reach Atty. Miles to work on the conservation restriction language, but thought the two could work it out, and asked for a conditional approval.

Mrs. Roberts offered the public the opportunity to review the map, "Site Analysis Plan," by Mr. Alex, revised to 4/3/07.

Mr. Arturi, Historic District Commission Chairman, read a statement voicing that Commission's concerns about the preservation of the streetscape in the Calhoun-Ives Historic District. He also noted much of the proposed open space was located in wetlands, which are already unbuildable. He asked the Planning Commission to require the applicant to preserve open space that was more suitable and to consider requiring building envelopes located so that any new structures built would not adversely impact the streetscape.

Mrs. Roberts advised the public that the hearing was for information gathering and not for debating. Mr. Meyer asked how the public could question the veracity of statements made or correct erroneous comments. Mrs. Roberts responded that questions and concerns should be addressed to the chairman, and said the Commission would consider them during its deliberations.

Mr. Shapiro noted that not all of the proposed open space is wetlands. Mr. Neff said 30% was wetlands.

Mr. Shapiro said he did not think the minutes of the last meeting were accurate and he felt the application process was a disheartening experience. He continued with a very lengthy statement, in which he said the following:

- He and Mr. Shaw were working to preserve the fields so they can continue to be hayed. However, should the Commission require they be preserved as open space, it would be a tremendous penalty to the owners who could lose millions of dollars in possible tax deductions. He noted, too, that he proposed to donate more acres of open space than was required.
- The property owners in the neighborhood have voiced their concerns about his proposed open space,

but most have not preserved any of their properties.

- He had tried to sell the property to the Town and to Steep Rock, but neither had the funds to purchase it. He had also invited the "neighborhood group" to make him an offer, but it failed to do so.
- He cited his experience in land preservation and his participation in the Litchfield Land Trust.
- He urged the Commission to revise the Subdivision Regulations so there would be an automotive waiver of the subdivision open space requirement for previous open space donations. He said as they are now written, property owners do not get credit for previous open space donations.
- He could not risk donating open space first and then applying for the subdivision with a request for a waiver of the open space requirement. Although he noted the Commission had granted such a waiver once before for the Taylor subdivision, it was not economically feasible for the applicant to do it in this case.
- The Subdivision Regulations allow for the donation of wetlands as open space, although they count only one fifth as much as Class I soils. He said the Commission was an administrative group and it would be arbitrary, capricious, and immoral for it to require open space in a location that would protect the streetscape.
- The Planning Commission can not consider possible future applications; it must deal with the current application. However, for those who were concerned about the future resubdivision of the property, he said if additional lots were planned, it would make sense to apply for them now because an additional 15% open space would be required in a later application. He said if wanted to he could propose 8 lots now to obtain the maximum profit with the current application without having to increase the size of his proposed open space donation.
- He said he trusted his partner Marc Shaw when he said he did not intend to resubdivide because building additional houses would lower the value of the existing properties.

Regarding the boundary line issue, Mr. Shapiro said he had spoken with Mr. Connolly, adjoining property owner. Mr. Connolly had CCA survey and draw an A-2 survey map for his property. The northern line on this map coincided with one of the two southern boundary lines shown on the Alex map. Mr. Shapiro said his attorney recommended that a reasonable condition of approval would be that the two property owners resolve this issue.

Regarding the draft conservation restriction language, Mr. Shapiro reported that his attorney thought Atty. Miles had misunderstood some of the provisions, but he had not had an opportunity to discuss them with him prior to the meeting. He recommended that the application be approved with the condition that the two attorneys work out the details of the conservation restriction language.

Mr. Shaw said he did not intend to develop the property. He said he restored old houses, was sensitive to the historic values of Washington, and would not do anything that was not in character with the area. He agreed with Mr. Shapiro that if he had plans to eventually get more lots, it would make sense to do it now so that he would not have to donate additional open space. He said his intention was to sell the lot with the existing house and barn as one "building site."

To correct the record, Mr. Smith, Calhoun Street, stated he did not own any frontage on Calhoun Street. He hoped the applicant would preserve the look of the area within the Town's regulations. He thought the proposal was better than some of the possible alternatives, and so he supported the application in what he described as "a round about way."

Mr. Shapiro asked if the missing items listed in Mrs. Hill's 5/1/07 review were reasons to deny the application. Mrs. Roberts advised him that if he needed more time to comply with all of the requirements, he could request an extension of the public hearing. Mr. Shapiro again stated his attorney told him the application could be approved with conditions. Ms. Gager explained there were five outstanding issues and if the public hearing were closed tonight, he would not have an opportunity to address them. Mr. Shapiro noted some changes to the map were required such as providing acreage to three decimal places and adding the limit of disturbance line. Ms. Gager explained a revised map could be submitted while the hearing was open, but not once it was closed. At 8:50 p.m. the Commission took a short recess to give Mr. Shapiro an opportunity to discuss with Mr. Shaw and Mr. Neff whether he should request an extension of the hearing.

Mrs. Roberts reconvened the hearing at 9:00 p.m. Mr. Shapiro submitted a written request, dated 5/1/07 to extend the hearing to the June 5th meeting.

MOTION: To continue the public hearing to consider the application submitted by Young Elliot's Farm, LLC. for a two lot subdivision at 110 Calhoun Street to Tuesday, June 5, 2007 in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington Depot, Ct. By Mr. Carey, seconded by Mr. Rimsky, and passed 5-0.

At 9:01 p.m. Mrs. Roberts continued the public hearing.

These public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mrs. Roberts called the meeting to order at 9:06 p.m. and seated Members Gager, Rimsky, and Roberts and Alternates Carey and Braverman for Members Charles and Frank.

Consideration of the Minutes

MOTION: To accept the 4/3/07 Public Hearing - Regular Meeting minutes with one correction: to add Mrs. Roberts name to the Members present. By Ms. Gager, seconded by Mr. Rimsky, and passed 5-0.

MOTION: To accept the 4/21/07 Brown-Carroll site inspection minutes as written. By Mr. Rimsky, seconded by Ms. Gager, and passed 5-0.

MOTION: To accept the 4/21/07 Abella site inspection minutes as written. By Mr. Rimsky, seconded by Ms. Gager, and passed 5-0.

MOTION: To add subsequent business not already posted on the agenda. By Ms. Gager, seconded by Mr. Rimsky, and passed 5-0.

Pending Applications

Young Elliot's Farm, LLC./110 Calhoun Street/2 Lot Subdivision: It was noted the public hearing had been continued to June 5, 2007.

Brown-Carroll/41 Buffum Road/2 Lot Resubdivision: Mrs. Roberts noted the public hearing had been closed and the application was in order. The condition of approval recommended by Mrs. Hill was briefly discussed. It was the consensus that the time limit for securing a zoning permit for the required lot line revision and for filing the mylar showing the lot line revision on the Town Land Records would be

July 10, 2007.

MOTION: To approve the application submitted by Mr. Brown and Ms. Carroll for a 2 lot resubdivision at 41 Buffum Road noting that the motion of approval includes granting of waivers for the following requirements: Section 4.4.11: state plane coordinates and Section 4.7.2: map scale, and subject to the following condition: that the approved resubdivision mylar map shall not be signed by the Chairman, nor shall it be filed on the Town Land Records until the Planning Commission has received proof that 1) a zoning permit has been issued for the required lot line revision (transfer of Parcel A to Tax Map 4-10, Parcel 4) and 2) that the resulting map has been filed on the Land Records; failure to do so by the Planning Commission's July 10th meeting shall render this approval null and void. By Ms. Gager, seconded by Mr. Rimsky, and passed 5-0.

Abella/44 Scofield Hill Road/3 Lot Resubdivision: It was noted a public hearing was scheduled for Tuesday, June 5, 2007 at 7:30 p.m.

Other Business

Preliminary Discussion/Washington Partners, 108 New Milford Turnpike: Mr. George, engineer, represented the property owner. The map, "Overall Site Plan," by CCA, dated 5/1/07 was reviewed. Eight lots were proposed on the 30.37 acre parcel. The location of wetlands, the 100 year flood plain, CL and P power lines, and entrance for the proposed 1000 ft. long road were pointed out. Mr. George noted the density calculations totaled 8.3. The configuration of the open space was briefly discussed. When advised that the open space was comprised of 69% wetlands, the Commission asked for open space that was not so focused on the wetlands because they are already protected under the Inland Wetlands regulations. Mrs. Hill noted that unless this application would be proposed under the Affordable Housing Appeals Act, some of the lots did not meet the minimum requirements under soil based zoning. Mr. Charles explained Section 11 of the Zoning Regulations to Mr. George. Mrs. Hill noted a residential density calculation sheet was required for each lot proposed. Mr. Charles recommended the applicant also have preliminary discussions with the Inland Wetlands and Conservation Commissions.

Revision of the Subdivision Regulations: Ms. Gager said she had contacted Mr. McGuinness of the NW Ct. COG and would report to the Commission at the next meeting.

Referral from Zoning Commission/Revision of the Zoning Regulations: Section 2.3.2.g: Prohibition of Drive Through Eating and Drinking Establishments: Mrs. Roberts read the proposed regulation. Mr. Rimsky asked what this would mean for the Coffee Express in Marbledale. Mrs. Hill said it would not be affected; it would be considered a pre existing non conforming business and would be grandfathered in. It was the consensus of the commissioners to endorse this proposed revision to the Zoning Regulations.

MOTION: To adjourn the meeting. By Mrs. Roberts.

Mrs. Roberts adjourned the meeting at 9:32 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator