

November 7, 2007

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

ALTERNATES PRESENT: Mrs. Braverman, Mr. Carey

ALTERNATE ABSENT: Mr. Fowlkes

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Szymanski

PUBLIC HEARING

Abella/44 Scofield Hill Road/3 Lot Resubdivision/Con't.

Mrs. Roberts reconvened the public hearing at 7:30 p.m. and seated Members Charles, Frank, Gager, Rimsky, and Roberts.

Mr. Szymanski, engineer, addressed the few issues remaining to be resolved: 1) consideration of passive solar techniques: Mr. Szymanski stated these had been discussed at the meeting on September 4th. 2) approval of the curb cut onto Scofield Hill Road: The 10/25/07 written approval for the feasibility of the driveway cut from Mr. Smith of the Highway Dept. was submitted for the file. 3) revision of the conservation easement language: The revised wording had been reviewed and approved with several minor modifications by the Conservation Commission. Mr. Szymanski submitted the 11/7/07 memo from Mrs. Payne, Conservation Comm. chairman, to the Planning Comm. detailing the four requested revisions in sections 2.4, 3.7, 3.9, and 4.5.b. Mr. Frank also noted corrections were needed on the signature page. It was agreed that Mr. Szymanski would produce the final draft, which would be forwarded to Atty. Zizka for a final legal review. Mr. Szymanski advised the Commission that there had been no changes to the subdivision map since the last meeting. No one from the public was present to speak for or against the application and there were no other questions or comments from the Commission.

MOTION: To close the public hearing to consider the application submitted by Mr. and Mrs. Abella for a 3 lot resubdivision at 44 Scofield Hill Road. By Ms. Gager, seconded by Mr. Frank, and passed 5-0.

Mrs. Roberts closed the public hearing at 7:36 p.m.

The public hearing was 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 7:38 p.m. and seated Members Charles, Frank, Gager, Rimsky, and Roberts.

Consideration of the Minutes

MOTION: To accept the 10/2/07 Public Hearing - Regular Meeting minutes as written. By Mr. Frank, seconded by Ms. Gager, and passed 5-0.

MOTION: To include subsequent business not already posted on the agenda. By Ms. Gager, seconded by Mrs. Roberts, and passed 5-0.

Pending Application

Abella/44 Scofield Hill Road/3 Lot Resubdivision: Mr. Frank reviewed the 10/10/07 email from Atty. Taylor, an associate of Atty. Zizka, and asked whether the Conservation Commission had considered the proposed reserved rights in the conservation easement. It was thought that it had because one of the requested revisions by the Conservation Commission was in section 3.7 regarding reserved rights. Mr. Carey said he would like more explicit wording to prohibit the planting of white pines and the planting of trees in rows. Mrs. Roberts pointed out, however, that the language to encourage the planting of native conifers was introduced by the Conservation Commission and that the language approved by Conservation also referred to planting trees in rows. Mr. Charles noted that in Steep Rock conservation easements planting may not be done without a review by the Land Trust. It was noted that Mr. Boling of the Conservation Commission had volunteered to work with Planning to draft standard language for conservation easements and that such a provision could be included. Mr. Frank and Ms. Gager will work with Mr. Boling. It was again stated that Atty. Zizka would review the final revised document once it is received by the Commission.

MOTION: To approve the application submitted by Mr. and Mrs. Abella for a 3 lot resubdivision at 44 Scofield Hill Road with the condition that the final conservation easement language be reviewed and approved by the Commission's attorney. By Mr. Rimsky, seconded by Ms. Gager, and passed 5-0.

New Applications

Klein-Cannizzaro/285 West Shore Road/2 Lot Subdivision: The map, "Property-Boundary Survey," by Mr. Alex, dated October 2007 was briefly reviewed. Mrs. Hill presented a brief memo dated 11/5/07, which stated the application was very incomplete, so incomplete that she had not done a thorough review. Mrs. Roberts read the memo. It was noted that the missing documentation included: 1) the application form was not completely filled out, 2) an incorrect application fee was submitted, 3) there was no approval from the state DOT for the driveway cut feasibility, 4) there was no Health Dept. approval, 5) no site development plans had been submitted, 6) there was no approval by the Inland Wetlands Commission (if needed - without a site development plan this could not be determined), and 7) the residential density determination forms had not been submitted. It was also noted that the property would be divided between two sisters for no consideration so open space would not be required.

Other Business

Brown-Carroll/41 Buffum Road/2 Lot Resubdivision: Mr. Charles recused himself. Mr. Frank reported that he and Mrs. Roberts had met with Atty. Miles to discuss the conservation easement language. Since that meeting Atty. Miles had tried to contact Mr. Mack's attorney, but to date he had not responded. It was noted that Mr. Mack had complained about the time it was taking to resolve this matter, but the commissioners said they had tried to guide Mr. Mack and that the Planning Commission was not responsible for the delays.

Mr. Charles was reseated.

Referral from the Zoning Commission/Revision of the Zoning Regulations/Accessory Apartments, Fences and Walls, and Non Conforming Docks: Copies of the proposed amendments had been passed out at the last meeting and each proposal was discussed.

Accessory Apartments: The proposed revision would allow only one accessory apartment per property,

whereas two, one attached and one detached, are currently permitted by Special Permit. Mr. Rimsky and Mr. Charles did not support the proposed revision and Mrs. Roberts reported that the Housing Commission was concerned about it because it would decrease housing options in Town. Mr. Charles made the following points: 1) The two accessory apartments must be accessed by the driveway serving the main dwelling on the property. 2) Limiting the number of apartments per property would hurt both low and high income property owners. 3) Approval of the proposed language would probably result in more subdivisions as a way for property owners to get the two apartments they need for children and older parents or for guest houses and caretakers and that once subdivided, larger dwelling units would be built in excess of the current 1200 sq. ft. maximum for accessory apartments. 4) Other nearby towns allow more than two dwelling units per property. Kent, for example, allows one two family dwelling and an accessory apartment per lot. 5) Those with modestly sized houses would be discriminated against because it would be possible that a large dwelling with many bedrooms would have greater lot coverage than a smaller home with two accessory apartments. Also, if the Health Department would approve an 8 bedroom house, for example, why should a small 3 bedroom house with two one bedroom accessory apartments be denied. Mr. Rimsky thought the proposal was contrary to the 2003 Plan of Conservation and Development, which, he said, supports the creation of alternate living environments. Mr. Charles agreed. Mrs. Roberts said that Mr. Owen, Zoning chairman, had agreed to a joint meeting of the Planning and Zoning Commissions after Christmas to discuss this matter and that she was opposed to any revisions regarding accessory apartments until after that meeting. Mr. Charles noted that the Zoning Commission had proposed revisions to the accessory apartment regulations in 2000, but after seven months of deliberation, had backed down and had made only minor changes. Mr. Carey thought the proposed revisions would discriminate against larger, more historic complex properties and that care should be taken by the Zoning Commission not to take too simplistic of an approach to this issue. Ms. Gager noted that the Zoning Commission had not tied in lot size with the number of apartments permitted. Mrs. Hill thought that doing so would discriminate against smaller property owners. Mr. Charles thought this was not needed because lot coverage and the Health regulations would control the number of apartments permitted per property. Mr. Carey said he had attended the last Zoning meeting and he noted that the Zoning commissioners agreed that the one accessory apartment to be permitted per property must be clearly subordinate in footprint and square footage to the main dwelling. However, a recent Zoning application involving a smaller house and a proposed accessory apartment with porches had concerned the Commission, and had resulted in the proposed revision, which he did not think adequately addressed this complicated issue. Mr. Carey agreed with Mrs. Roberts that there should be a thoughtful and productive dialogue between the Zoning and Planning Commissions before Planning responds to the referral. Mr. Rimsky said the proposed revision was not considerate of the human condition, was not a thoughtful approach, and would encourage subdivisions. It was the consensus that Mrs. Hill and Mrs. Roberts would write a letter to the Zoning Commission detailing the comments above and that Mrs. Braverman and Ms. Gager would attend the Zoning public hearing on November 26th to read the letter into the record.

Fences and Walls: It was noted these proposals would provide non binding guidelines for fences and walls, update and clarify the definitions of "building," "structure," "fence," and "wall," distinguish between open, semi open, and closed fences and walls, specify the method for measuring the height of a fence or wall and to change the setback requirements for fences and walls depending on whether they are open, semi open, or closed. Mrs. Hill explained that the Zoning Commission was attempting to preserve rural character by preventing the construction of fences and stonewalls along roads in Town like those recently built on Rt. 199 by Red Jacket Farm and nearby property owners. There was a brief discussion regarding how the Bourne wall at The Gunnery was in keeping with the Town's character and the new walls along Rt. 199 were not. It was suggested that the revised regulations should permit more flexibility in the village centers. Mr. Frank read the proposed non binding guidelines. Mrs. Roberts noted that while she was not against the guidelines, she cautioned that Zoning should watch out for unintended consequences. She stated that the variety of architecture in Town contributes to its character. It was the

consensus of the commissioners to support each of the proposed revisions regarding walls and fences.

Non conforming docks: Mr. Frank explained that there are many non conforming docks around the lake that don't meet the current definition of "dock," which requires that water flow underneath them and that the proposed revisions were an attempt to integrate these concrete docks into the existing Regulations. Mr. Charles referred to proposed Section 6.6.14 and asked during what time of year it is determined whether the dock is 3 ft. above the water level. Several issues related to docks were briefly discussed; whether they were permitted anywhere other than Lake Waramaug, how the new Town dock would fit in with the regulations, and whether Kent, Warren, and Washington had made any attempts to coordinate regulations around the lake. The Commission had no objections to the proposed revisions.

2008 Calendar

MOTION: To approve the 2008 Calendar as presented. By Mr. Rimsky, seconded by Mr. Frank, and passed 5-0.

Flood Plain Issues: Mr. Charles noted that the Planning Commission had recommended that studies of the flood plain and the septic capabilities of the soils in the Depot be undertaken, but that neither had been done due to the high cost. He said that as a result, important decisions about the Primary School and the Depot would be made without knowing the exact location of the flood plain. Mr. Carey summarized the research he had done on this matter and how FEMA had established the flood plain after the 1955 flood using the gaging station at Weller's Bridge in Roxbury without making a visit to Washington, and said the study needed would cost at least \$70,000. It was noted that the inaccurate flood plain data established at that time had already been corrected in more densely developed areas of the state. Mrs. Roberts suggested the possibility of doing only a partial study covering the section of the river from the Primary School to Hidden Valley. Mr. Carey reported that Mr. Szymanski, engineer, had provided the Town with an overlay of the elevations of the Primary School floors in relation to the flood plain, but that although this information was useful, it was inadequate. It was noted that corrected flood plain data would be valuable not only for the Primary School property, but to determine the most appropriate use for the River Loop property and for future planning for the Depot as well. It was the consensus of the commissioners that the Planning Commission would write to the Board of Selectmen to advise it that a flood plain study is urgently needed because it is impossible to plan for the Depot without it. The commissioners felt this was an increasingly important issue that could not be put off any longer. Mr. Carey and Mr. Rimsky will draft the letter.

Mr. Frank briefly reviewed the Washington Country Club's application to the DEP for the renewal of its water diversion permit. He explained that ten years ago the permit had been issued to allow the Club to draw 150,000 gallons of water per day from Lake Waramaug to operate the Club's irrigation system. He said he had asked Mr. McGowan of the Lake Waramaug Task Force to review the matter. Mr. Charles suggested the Club could reduce its water requirements by planting a different kind of grass.

MOTION: To adjourn the meeting. By Mr. Frank.

There being no further business, Mrs. Roberts adjourned the meeting at 9:12.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Coordinator