

**August 3, 2004**

MEMBERS PRESENT: Mr. Byerly, Mr. Charles, Mr. Rimsky, Mrs. Roberts

MEMBER ABSENT: Mr. Bender

ALTERNATES PRESENT: Mr. Fairbairn, Mr. Frank

ALTERNATE ABSENT: Mr. Buck

STAFF PRESENT: Mrs. Hill, Mr. Solley

ALSO PRESENT: Mr. Beck, Atty. Kelly, Mr. Gitterman, Ms. Yurchak, Residents, Press

**PUBLIC HEARINGS**

**Application for Scenic Road Designation for Shinar Mountain Road**

Mr. Charles called the public hearing to order at 7:32 p.m. Mrs. Roberts recused herself and left the room. Seated were Members Byerly, Charles, and Rimsky and Alternates Fairbairn and Frank. Mr. Charles read the legal notice published in **Voices** on 7/21 and 7/28/04.

Mr. Charles noted the documents in the file (see attached list) and read Mr. Gitterman's 8/3/04 letter with attached map to the Commission. Mr. Gitterman said he had nothing else to add.

No one from the public spoke against the application, although it was noted for the record that Mrs. Woodruff had written a letter dated 5/6/04 against the application.

Ms. Yurchak, a resident on Shinar Mt. Road voiced her support for the application.

MOTION: To close the public hearing to consider the application to designate Shinar Mountain Road as a scenic road. By Mr. Fairbairn, seconded by Mr. Frank, and passed 5-0.

Mr. Charles closed the hearing at 7:40 p.m. Mrs. Roberts returned and was seated.

**Beck/129 Calhoun Street/2 Lot Resubdivision/Continuation**

Mr. Charles reconvened the public hearing at 7:42 p.m. and seated Members Byerly, Charles, Rimsky, and Roberts and Alternate Frank for Mr. Bender.

Mr. Charles noted the documents that had been submitted since the last meeting, which included the map, "Property Survey," by Mr. Brautigam, revised to 7/15/04. He read the 7/22/04 letter from Atty. Zizka, which responded to the issues raised by Atty. Kelly at the last session of the hearing. This letter is attached.

There were no questions or comments from the Commissioners.

Atty. Kelly stated Atty. Zizka's letter was his opinion only and not a point of law. He objected to the application for many reasons including: 1) Section 11.3 of the Zoning Regs states an interior lot must be a minimum of three acres excluding the area of the accessway, 2) lines 5, 6, 8, 10, and 13 on the application form were not filled out, 3) "subdivision" was checked off on the application form, not "resubdivision," 4) the information required for the density calculations was incorrect and incomplete, 5) the application had not been signed by both property owners and there was no letter of authorization for Mr. Beck to act on behalf of Mrs. Beck, and 6) a soil scientist had not certified the soils per Section 11.1.2 of the Zoning Regs. Also, he found that Section 1.4 of the Subdivision Regulations had not been met because he said the application did not comply with the Zoning Regulations. Mr. Charles noted per

11.1.1, the USDA map was presumed to show the correct soil classifications, but Atty. Kelly responded Section 11.1.2 is an exception since the proposed yield exceeds 40% of the theoretical maximum number of lots permitted. Atty. Kelly stated the Brautigam map did not properly apply the format for calculating residential density because it subtracted the proposed conservation easement area before it was approved, which when correctly calculated could possibly raise the density permitted for the Beck property. He also believed the wetlands had been incorrectly calculated on the Brautigam map. Other concerns he noted were: 1) Section 4.2.1-map scale on the Brautigam map did not comply, 2) 4.3.1.0-boundaries of all the regulated areas were not shown due to the location of intermittent streams off the Beck property, 3) building setback lines were not shown on the Brautigam map, 4) Section 4.4.14-there was no note on the map regarding whether the lot could be further subdivided according to the density regulations, 5) Mr. Beck had stated in the 1997 minutes that this property would not be further resubdivided in the future, 6) the contour lines were provided only for a portion of lot #3, not for the entire lot as required, 7) Sect. 4.5.11-the boundaries for all wooded areas were not shown on the Brautigam map, 8) Sect. 4.5.1.3-the location of existing and proposed landscaping was not shown, 9) Sect. 4.7.1-a site specific narrative was not submitted, and 10) Sect. 3.4.3-the sign advertising the hearing did not stay up for the entire length of the hearing. Atty. Kelly asked the Commission to deny the application for all the above reasons and he submitted a letter dated 8/3/04 listing all of his objections.

Mr. Beck said he was not able to respond at this time to all the points raised because he would have to consult with his engineer and surveyor. Since the hearing could not be continued, Mr. Fairbairn advised him he could either withdraw the application, work to address the points raised, and resubmit or the Commission would make a decision based on the information now in the file. Mr. Beck said he would proceed with the application.

There were no other questions or comments from the public.

MOTION: To close the public hearing to consider the application submitted by Mr. Beck for a two lot resubdivision at 129 Calhoun Street. By Mr. Frank, seconded by Mr. Byerly, and passed 5-0.

Mr. Charles closed the hearing at 8:28 p.m.

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

### Regular Business

Mr. Charles called the Meeting to order at 8:29 p.m. and seated Members Byerly, Charles, Rimsky, and Roberts and Alternate Fairbairn for Mr. Bender.

### Consideration of the Minutes.

The 7/6/04 Regular Meeting minutes were accepted as corrected. On page 1 under Taylor, it should be stated that Mr. Charles recused himself and Mrs. Roberts chaired that portion of the meeting. In first the motion on page 2, Mr. Fairbairn seconded the motion, not Mr. Frank, who was not seated. The motion at the bottom of page 3 was made by Mr. Fairbairn and seconded by Mr. Byerly. The motions on pages 3 and 4 for both the installation of the sidewalk and the discontinuance of sections of Old Bee Brook Road and West Mountain Road should state the Commission had no objection to the proposals and not that it approved each one. In the third paragraph on page 5, second sentence, "they" should be changed to "the Commissioners."

MOTION: To accept the 7/6/04 Regular Meeting Minutes as corrected. By Mr. Fairbairn, seconded by Mr. Rimsky, and passed 5-0.

MOTION: To add subsequent business not already posted on the agenda. By Mrs. Roberts, seconded by Mr. Byerly, and passed 5-0.

#### Pending Applications

##### **Application for Scenic Road Designation for Shinar Mountain Road**

Mrs. Roberts recused herself and Mr. Frank was seated.

Mr. Solley, Selectman, noted he had not been present for the hearing, but had comments to make as a member of the Town staff. He stated parts of the road were close to impassible and the Board of Selectmen reserved the right to maintain it for public safety and would, in fact, begin regarding work within a few weeks. He said the Board was not opposed to the scenic road designation, but was concerned that it be able to do its job to maintain it. Mr. Charles noted the process for completing Town work was described in the Ordinance and recommended the Board contact all Shinar Mt. Road residents prior to beginning the work in order to avoid misunderstandings.

It was the consensus of the Commissioners that Shinar Mountain Road met the criteria for scenic roads and that designating it as a scenic road would help to protect this sensitive area.

MOTION: To approve the application submitted by Mr. Gitterman to designate Shinar Mountain Road as a scenic road. By Mr. Rimsky, seconded by Mr. Byerly, and passed 5-0.

Mrs. Roberts was reseated.

##### **Beck/129 Calhoun Street/2 Lot Resubdivision**

Mr. Charles seated Members Charles, Rimsky, and Roberts and Alternate Frank because they had attended all sessions of the public hearing. It was the consensus the Commission should wait to act on the application until it had reviewed Atty. Kelly's letter. It was noted it had 65 days in which to act once the hearing was closed.

Mr. Byerly was reseated.

#### New Application

##### **Application to Designate Senff Road as a Scenic Road**

A site inspection was scheduled on Saturday, August 14, 2004 at 10:30 a.m. Members will meet at the intersection of Shearer and Senff Roads. Mrs. Hill will refer the application to the Board of Selectmen.

#### Other Business

##### **Referral from the Zoning Commission/Conto/Petition to Amend the Zoning Map**

Mr. Charles read the 7/29/04 referral letter from the Zoning Commission. Copies of the petition and attachments will be sent to all Members to review prior to discussion at the next meeting.

##### **Referral from the Board of Selectmen/Installation of Sidewalk on Town Owned Property/Green**

## **Hill Road**

Mrs. Hill noted the motion made at the last meeting referenced the wrong documents and a correction was required for the grant application.

**MOTION:** To inform the Board of Selectmen that the Planning Commission has no objections to the installation of a sidewalk on Town owned property on Green Hill Road per the 6/18/04 letter and attached map from Mr. Sears. By Mr. Rimsky, seconded by Mr. Byerly, and passed 5-0.

**Revision of the Subdivision Regulations:** Discussion of this matter was postponed until Mr. Bender is present.

## **Washington Depot Business District Study**

Mr. Rimsky circulated copies of his vision statement. A Special Meeting to discuss the RFP letter was scheduled for Tuesday, August 10, 2004 at 5:00 p.m. in the Land Use Meeting Room. Mr. Charles asked the Commissioners to review Mr. Wood's model letter and to consider ideas for a short preamble/vision statement to accompany the letter.

## **Privilege of the Floor**

Mr. Sears passed out copies of the Lake Waramaug Agreement and invited the Commissioners to learn more about it at a meeting on 8/12/04 at 7:30 p.m. with Senator Roraback. There will also be a Town Meeting on 9/2/04 to empower the First Selectman to sign the document on behalf of the Town. Mr. Sears said details about future work necessary at the Town Beach were not included and that the Town would formally apply for land use permits at a later date.

## **Communications**

The 7/10/04 letter from Mr. Bender, which stated he would resign as chairman, but continue to serve on the Commission, had been mailed to all Members. It was the consensus that he was irreplaceable due to the high standard he set as chairman because of his legal background, knowledge of Planning matters and procedures, and most of all, because of his sense of fairness. There was a lengthy discussion regarding who should be selected to serve as the next chairman. It was the consensus that Mrs. Roberts would be Commission chairman and Mr. Charles would serve as the chairman of the Depot Study subcommittee.

**MOTION:** To adjourn the meeting. By Mr. Fairbairn.

Mr. Charles adjourned the meeting at 9:45 p.m.

**FILED SUBJECT TO APPROVAL**

Respectfully submitted,

Janet M. Hill, Land Use Coordinator