

# September 7, 2004

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

MEMBER ABSENT: Mr. Bender

ALTERNATES PRESENT: Mr. Fairbairn, Mr. Frank

STAFF PRESENT: Mrs. Hill, Mr. Sears

ALSO PRESENT: Atty. Kelly

## Regular Business

Mrs. Roberts called the meeting to order at 7:30 p.m. and seated Members Byerly, Charles, Rimsky, and Roberts and Alternate Frank for Mr. Bender.

## Consideration of the Minutes

The 8/3/04 Regular Meeting minutes were accepted as corrected. Mr. Frank noted on page 4, in the sixth line under Shinar Mountain Road, that "regarding" should be "regarding."

MOTION: To accept the 8/3/04 Regular Meeting minutes as corrected. By Mr. Frank, seconded by Mr. Rimsky, and passed 5-0.

MOTION: To accept the 8/10/04 Special Meeting minutes as written. By Mr. Charles, seconded by Mr. Rimsky, and passed 5-0.

MOTION: To accept the 8/14/04 Special Meeting minutes as presented. By Mr. Charles, seconded by Mr. Byerly, and passed 5-0.

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

## Pending Application

### **Application for Scenic Road Designation for Senff Road**

The Commissioners who had attended the August 14th site inspection agreed Senff Road was truly scenic and worthy of preservation. A public hearing was scheduled for the October meeting.

MOTION: To schedule a public hearing to consider the application to designate Senff Road a scenic road at 7:30 p.m. on Tuesday, October 5, 2004 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Charles, seconded by Mrs. Roberts, and passed 5-0.

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

The map, "Property Survey," by Brautigam Land Surveyors, dated 2/4/04 was studied. The Commissioners had previously reviewed Mrs. Hill's 9/1/04 memo, which had concluded some of the required documentation was missing from the application. It was noted much of what was missing was minor and that it could easily be provided by the applicant or possibly waived by the Commission if petitioned by the applicant. However, the public hearing had been closed and so no new information could be received at this point in the deliberations. It was noted several major requirements had not been addressed. 1) It appeared the density calculations on the Brautigam map were inaccurate. 2) The class A, B, and C soils had not been certified by a soil scientist as required in Section 11.1.2 of the Zoning

Regulations. 3) A formal conservation easement to address the open space had not been submitted. While it was generally thought Mr. Beck most likely met the soil based zoning requirements, the Commissioners thought the application had not been carefully prepared. For example, the maps submitted did not contain all of the information required in Section 4.3 of the Subdivision Regulations and the Brautigam map was not drawn to the required scale. It was noted applicants must be careful to completely fill out application forms and to provide all the information required by the Regulations. It was also thought it would be helpful if the Conservation Commission could draft a standard conservation easement form that could be used by applicants.

MOTION: To deny the application submitted by Mr. Beck for a 2 Lot Resubdivision at 129 Calhoun Street without prejudice because the application is incomplete. By Mr. Charles, seconded by Mr. Frank, and passed 5-0.

Other Business

### **Referral from the Zoning Commission/Conto Petition to Change the Boundary of the Depot Business District to Include 17 River Road**

Mrs. Roberts noted a copy of the 7/29/04 referral letter plus the 7/21/04 petition letter and attached maps from Atty. Kelly had been mailed to the Commissioners for their review.

Atty. Fairbairn stated he thought it would be premature to rezone 17 River Road at this time because it would be spot zoning and it would compromise the Depot study the Commission plans to conduct.

The history of the B-2 District and of this property was reviewed. It was noted the current dentist office is "grandfathered" and other commercial uses as listed under the Home Occupation section of the Zoning Regulations were permitted by Special Permit even though 17 River Road is located in the Farming-Residential District.

Atty. Kelly agreed the question of spot zoning was problematic. He explained the Contos petitioned to change the District boundary line to what they had always thought it was. He noted prior to the date they had purchased the property, the district boundary had been moved from Cook Street to Canoe Brook, which made all three properties between Cook Street and the brook non conforming. He said that the Plan of Conservation and Development recommended the boundary be moved back to Cook Street and that Planning had led him to believe it would support the petition when he had discussed it previously with the Commission. Atty. Kelly said he offered to purchase the property and had plans to move his business there next May. He asked the Commission to table its discussion for a month until he found out if his financing would be approved.

Mr. Charles noted under the current Regulations Atty. Kelly would have to reside on the property in order to have an office there and he was doubtful the study would be completed by May. Mrs. Roberts and Mr. Charles thought it would be wise to wait to advise the Zoning Commission about the petitioned change to the District boundary until after the study is completed. Mr. Frank pointed out the Commission had, indeed, advised Atty. Kelly in broad terms when he first discussed this matter, that including this parcel in the Depot Business District was consistent with the 2003 POCD. Atty. Kelly suggested if he were to purchase the property he could ask the owners of the other two properties between Cook St. and the brook to join in the petition.

Mr. Fairbairn noted under the state statutes the Planning Commission must respond to the Zoning Commission's referral within a specified time period, and so he was not in favor of tabling discussion to the next meeting.

Mr. Kelly withdrew his petition for the record and said he would submit the withdrawal in writing to the Land Use Office on Wednesday.

**Depot District Study:** The draft letter, which had been mailed to the Commissioners for review, was discussed. Several grammatical corrections were made and it was decided to use Mr. Rimsky's vision statement as a separate cover letter. More significant changes to the letter included the addition of social and recreational use issues to those already listed in the first paragraph under Description of the Project and to add Smart Growth as an issue to consider in the second paragraph of that section. It was decided the deadline for proposals would be October 29, 2004. Mr. Charles will compile a list of consultants to whom the RFP will be sent.

**October Study Groups:** Mrs. Roberts noted Mr. Sears had notified her of the dates for the townwide discussions of current issues such as housing diversity and the Depot Study. Mr. Charles and Mr. Fairbairn questioned how the Depot Study discussion could take place without participation by the Planning Commission who will be conducting the study and also what the purpose of the discussion group was. It was generally thought any recommendations by the town discussion group would be premature because the study has not yet been completed and that the Planning Commissioners should attend the discussion. Mrs. Roberts will advise Mr. Sears that he should keep the Commission "in the loop" and that the discussion group should be careful not to come to any conclusions before the study is completed.

#### Communications

The Commissioners circulated a get well card for Mr. Bender.

Mrs. Roberts read Mr. Buck's 8/10/04 letter of resignation from the Commission. She said she had written him on behalf of the Commission to thank him for his service. There was a brief discussion regarding the appointment of a new alternate. Most of the Commissioners thought it was more important that the new alternate have a sense of the community rather than a knowledge of planning law and issues. Mr. Fairbairn said he would convey this opinion to Mr. Brinton, Chairman of the Republican Town Committee.

A copy of the article Mrs. Roberts had submitted to the **WashingtonTown Times** had been mailed to the Members for their review and it was the consensus that it was acceptable.

Mr. Sears arrived and the October discussion group was briefly discussed again. It was agreed the Commission should be drawn into the discussion process and that the Commissioners should attend the October meeting.

Mrs. Roberts read Mr. Boling's 8/11/04 letter, which suggested the Commission amend the Subdivision Regulations to exempt a subdivision from the open space requirement if 1) open space was previously preserved by the owner of the subject property in an amount that exceeds the acreage that would be required per the Regulations, and 2) the location and configuration of that open space on the subject parcel is consistent with the Town's resource preservation goals. Mr. Fairbairn said he had been waiting for Mr. Bender's return before resuming work on recommendations for revisions to the Subdivision Regulations. He will compile his and Mr. Bender's notes and have a list ready for the next meeting. It was generally thought Mr. Boling's suggestion had merit.

Copies of the Draft 2003-2004 Annual Report were circulated.

**MOTION:** To approve the annual report for 2003-2004. By Mr. Rimsky, seconded by Mr. Frank, and passed 5-0.

## Other Business

**Referral from the N. Milford Zoning Commission:** The New Milford Zoning Commission scheduled a public hearing on 9/28/04 to consider a zone change on property adjoining Walker Brook Road that would enable an application for an 80 lot cluster-open space subdivision. The map, "Preliminary Layout Under Cluster Conservation Subdivision District, Walker Brook Farm," dated 6/7/04, by L. Edwards Associates was reviewed. The 9/3/04 letter from the Conservation Comm. to New Milford Zoning was reviewed and it was agreed this was a thorough response. Mr. Sears noted Walker Brook is a one lane dirt road and said the Board of Selectmen would write against the proposal. It was the consensus the Planning Commission should also send a letter to New Milford regarding planning issues. Mr. Fairbairn noted the subdivision would be located closer to Washington Depot than it would be to New Milford center and that Washington did not have the infrastructure to handle it. It was also thought the proposal was contrary to the 2003 Plan of Conservation and Development. Mrs. Roberts will contact Atty. Byrne to ask that he help the Commission draw up a complete list of planning concerns and draft a response to New Milford.

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

Mrs. Roberts adjourned the meeting at 9:54 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator