

July 31, 2008

Present: Polly Roberts, Randolph Snook, Brad Sedito, Katherine Leab

Alternates: Georgia Middlebrook, Roderick Wyant III, Peter Bowman

Absent: Todd Catlin

Staff: Shelley White

Others: Mathew Klauer, Gerald Klauer, Attorney Rob Fisher, Paul Szymanski, public, press

Brad Sedito, Chairman called the meeting to order at 7:35pm.

PUBLIC HEARING

7:35 pm

Mr. Sedito seated regular members Katherine Leab, Randolph Snook, Polly Roberts, himself and Alt. Peter Bowman.

ZBA-0813, Request of Wykeham Rise, LLC, 101 Wykeham Road, application for variance to Zoning Regulations 11.5.1 (lot coverage), 21.1.37 (lot coverage definition).

Attorney Robert Fisher, from Law Offices of Cramer & Anderson, Paul Szymanski, P.E., from Arthur H. Howland & Associates, P.C., Mathew Klauer and Gerald Klauer, Principals of Wykeham Rise LLC were present to represent this application. Mr. Fisher announced that the applicant withdraws the request to vary Zoning Regulation 21.1.37 (definition of lot coverage). Mathew Klauer began a presentation with the history of the property. He explained how the property was once Wykham Rise School for girls. It supported heavy use of 120 students as well as faculty and support staff. Then it was the Swiss Hospitality Institute. The SHI put in a 10,500 gallon a day septic system. He stated that this system would be able to support 70 bedrooms by current standards. Mr. Klauer stated that his plan would have benefits to the community and the land. Wykeham Rise LLC plan will put less stress on the infrastructure of Washington. Existing buildings that encroach on the wetlands will be removed. This will put the wetlands back to its previous state which will result in improvement of the eco system and water quality of Kirby Brook. The proposed project is an environmentally LEED Certified project using environmentally sustainable construction. There will be reuse of materials on site, solar panels & rainwater collection. The proposed project will be cleaning up an eyesore as the property has not been maintained since vacancy. Mr. Klauer stated the benefits to the town are jobs, support of local businesses, increase in taxes on the property and a great service to the town. Mr. Klauer stated that he had 25 letters of support to add to the already 108 letters on file for a total of 133 letters of support. Mr. Klauer read a few letters of support to the ZBA.

Paul Szymanski presented site plans revised, dated July 30, 2008. He stated that the property is 26.9 acres. He pointed to the hardships of the property as well as the existing building locations. All buildings except one will be removed. The remaining building will be relocated on the property and serve as the pool house for the proposed plan. Mr. Szymanski stated that there was an additional reduction in the lot coverage. The proposed project started out at 17.6% lot coverage. The proposed plan of Wykeham Rise LLC has consolidated the number of buildings and is proposing 4, 2 and 1 bedroom cottages. Wykeham Rise LLC has made a concerted effort to respond to the feedback they have received. As a result the tennis court in the upper south east corner has been removed from the plans reducing potential noise to

abutting neighbors and bringing the total lot coverage to 11.38%. Mr. Snook asked what the total number of rooms would be. Mr. Szymanski replied that it is 54. Mr. Sedito asked how many acres. Mr. Szymanski replied 26.9 acres. Mr. Szymanski presented As-Built of Property in 1991, Prepared for Mathew Klauer by Arthur H. Howland & Associates P.C., sheet: ASB.91, dated July 10, 2008. He pointed out the lot coverage at that time was 11%. Mr. Szymanski stated that the lot coverage regulation of 10% was approved in 2003 and since then the ZBA has varied 80-90% of applications by commercial and institutional properties in a residential district. He stated that the ZBA has approved variances for the Town of Washington, The Gunnery, Rumsey Hall and Region 12 School District for lot coverage regulations. He pointed out the site plan from vegetation prospective. He presented renderings of the property as one would see it from the road. He stated that the existing buildings do not have a residential look to them. The proposed plan has a look more in keeping with the neighborhood. The goal is to have structures that look like farm outbuildings and vegetation that will screen the main building. Ms. Roberts asked about removal of existing trees. Mr. Szymanski submitted Planting Plan for Wykeham Rise, by Didona Associates, revision date July 14, 2008. The proposed planting plan provides deciduous trees along the road, 10 ft planting in the currently sparse south east corner, and buffering along residential properties. Mr. Sedito asked if the existing entrance way will remain. Mr. Szymanski said that it will be maintained and will be narrowed to 14 ft. from 18 ft. so that it will be used as a one way entrance and look more like a residential driveway. Mr. Sedito asked if the property was going to be used for weekly or monthly rentals. Mr. Klauer responded that it will be an inn with nightly reservations. Mr. Szymanski briefly discussed the architectural plan. He presented the elevation drawings by Moisan Architects, Inc., dated July 25, 2008. A display of materials that will be used on the buildings included vertical cedar siding painted in barn red, Nantucket grey and Navajo white, cupolas, copper, fieldstone veneers, silos and barn doors. Mr. Szymanski stated that the two areas that have a less than 10% slope are in the northwest corner that has wetlands and the southern portion of the property which is currently hayfields. The wetlands on the property are about 10%, 2.6 acres. Mr. Szymanski pointed out that the property is unique to others in the vicinity because Kirby Brook runs through the entire front portion of the property. He points out the hardship of this property is that the most buildable portion of the land is approximately 750 ft. from the road. The area of the driveway to access this land is 1.65% of the coverage. He compared this request to the Town of Washington's request to expand the Town Garage 3 years ago and the hardship of the property on Blackville Road. He presented the lot coverage breakdown showing 25,500 sq. ft of asphalt driveway and 42,300 sq. ft. of porous asphalt. He discussed how the runoff would be decreased and it will not adversely affect neighboring properties during storms. He stated how these pervious surfaces would help with sedimentation erosion control and small water management which is a concern in the Zoning Regulations. Mr. Sedito asked where the water goes with the pervious surfaces. Mr. Szymanski stated that it goes through the pavement to a sub base and infiltrates slowly into the ground. Mr. Sedito asked the depth of the sub base. Mr. Szymanski stated it is 30 inches. Mr. Sedito asked what happens to that water in the sub base if it overflows. Mr. Szymanski said that the water would have to be about 8 inches and would then flow into a grass line swale or retention pond and then a controlled release of waters to Kirby Brook. Mr. Sedito asked what the difference was between pervious and impervious surfaces and the distribution of water. Mr. Szymanski said the impervious surfaces that exist (roofs, asphalt drives, curtain drains) are directly discharged into the wetlands or Kirby Brook. He states that a high velocity of storm water has the potential for soil erosion and sedimentation. Mr. Szymanski stated that the proposed plan includes rain gardens down hill from the roofs that will provide slow infiltration of rain water into the soil. Mr. Bowman asked how much of the area will be paved surface. Mr. Szymanski stated that 25,000 sq. ft. will be impervious and 42,000 sq. ft. will be pervious and that the porous surfaces represent 3.61% of the lot coverage for the proposed plan. Mr. Snook asked if all the buildings as well as the foundations would be demolished. Mr. Szymanski stated yes except for the building that would be relocated and used for the pool house. Mr. Sedito asked what the lot coverage was in 1991 with the previous owners. Mr. Szymanski stated it was 11%. Ms. Roberts asked Mr. Szymanski to walk thru the proposed site plan and go over the location of the

buildings. Mr. Sedito asked how the cottages would be accessed. Mr. Szymanski stated they would be accessed by walkways. Mr. Sedito asked if the pool could have been situated differently. Mr. Szymanski stated that it would cut into the septic system, the grade in other areas was unsuitable and there were screening and buffering considerations. Mr. Bowman asked what the walkways would be constructed with and how the walkways would be maintained. Mr. Szymanski stated they would be pervious pavers with a crushed stone base. Mr. Bowman stated his concern was the amount and width of the walkways and how they would be maintained in the winter. Mr. Sedito asked if there was a calculation for the pervious walkways. Mr. Szymanski said that he could get that for the ZBA. Ms. Leab asked if the plans showed air conditioners and generators. Mr. Szymanski stated that there is an allotment for hardscape built into the coverage. He said that Zoning has asked that they show the specific location of these items. Ms. Leab stated that the ZBA varies a precise snapshot and would need to know the location of the items. Mr. Szymanski said that he could provide that for them. Ms. Middlebrook asked the size of the generator that would be used. Mr. Szymanski said that he would get that information for the ZBA. Mr. Szymanski said that the access way along Bell Hill Road will be removed. Mr. Bowman asked if the plan has been reviewed for emergency vehicle access. He asked if they would require wider road ways, and if they would be able to access the upper cottages which don't have driveways to them. Mr. Szymanski said that he would get a letter of approval from the fire department and emergency vehicle services specifically addressing this issue.

Mr. Sedito asked why this project could not stay with in the 10% lot coverage. A discussion about removing certain buildings and how it affects the lot coverage continued. Mr. Szymanski stated that they would have to cluster the units into a larger less residential looking building to reduce the number of units. The height of the building would increase and it could have a potential negative impact on the neighborhood. Mr. Sedito asked how the people will be getting to their cottages. Mr. Szymanski stated that they will come to the lobby and a porter will take their bags to the cottages and the people will walk on a path to their cottage. The path will be a grass path called mode path. Mr. Sedito asked if there were anymore questions.

Attorney Fisher stated that Wykeham Rise LLC is asking for a variance on a small overage of lot coverage. Mr. Sedito asked if Attorney Fisher could speak of the hardship. Attorney Fisher read the letter dated July 31, 2008 to the Members of the Board. In the letter he notes section 8-6(3) of the Connecticut General Statutes and describes the peculiar existing conditions of the property.

8:55 pm

Request by Chairman Sedito to adjourn for 5 minutes.

9:00 pm

Ms. Roberts addressed the subject of letters of support and opposition. She stated that there are 99 in favor of the project, 13 of these are from out of town, and 15 were supplied by Mr. Klauer that were sent to him via email and not directly to the land use office. There were 14 against the project and mostly from surrounding property owners and nearby neighbors that were mainly concerned by the intensity of use of the property. All these letters are in the land use office file and available to the public to read. Mr. Sedito asked for comments from the public.

Attorney Edward Hill from the Law Offices of Robinson & Cole was present to represent Eric and Wendy Federer of 27 Bell Hill Road. He distributed a letter to the Commissioners dated July 31, 2008. This letter included attachments. The first attachment was an A-2 Survey submitted with the applicants special permit application to the Zoning Commission that has a note stating "Property is subject to rights and benefits conveyed to Wendy R. Federer, Trustee, in Vol. 184 P.123. Reference is made to Vol. 114 P. 593 Washington Land Records (in essence, a deed restriction prohibiting building on the southerly portion of the property). Paragraphs 1 and 2 of the Agreements. Additionally attached: 1. a copy of the Conveyance and Assignment from Wykeham Rise School, Incorporated to Wendy R. Federer, Trustee, 2. a copy of the Declaration of Beneficial Ownership, 3. a copy of the deed from Wykeham Rise School.

Attorney Hill stated that the applicant did not include a narrative of the hardship. He stated that the information is misleading and submitted at the latest possible time. Mr. Sedito stated that they did submit a letter stating the hardship. Attorney Hill stated that there is no basis for granting a variance because the applicant knew when he purchased the property that there was a 10% lot coverage regulation. He said, "It is not okay to make financial motivation a hardship." Attorney Hill referred to his letter that states the issues of title must be resolved in court (Connecticut General Statutes, Section 47-31) "and that land use agencies do not have the authority to determine title issues. Therefore the Zoning Board of Appeals cannot legally refuse to enforce Section 47-42d based on the applicant's claim of the invalidity of the restriction." He requested the application be denied and if it is not denied to remain open so that the materials can be evaluated. Attorney Fisher stated that he and his client had no objections for the hearing to be continued. He stated that the coverage has decreased gradually in order to address the concerns and other feedback from the surrounding neighbors and public.

Attorney Gail McTaggart from the offices of Secor, Cassidy & McPartland, P.C. was present to represent Dr. and Mrs. John and Mary Ewing of 86 Wykeham Road. She stated that she and her clients share Attorney Hill's concerns. She handed out a copy of her letter to the ZBA dated July 31, 2008 and other handouts (originals in Land Use File) and stated she would summarize the contents. She stated that the applicant is proposing a use of property in a way that it was not intended. She stated that it is hard to have a hardship for a use that is not permitted. She then discussed why she thinks the variance request is based on economics. Ms. Mc Taggart included Attorney Mike Zizka's review of variances. She noted Bloom vs. Zoning Board of Appeals in her letter. She discussed how "The coverage requirements set forth in the zoning regulations set forth a bright line test for compliance and the hardship presented is not unique to this property." She asked that the variance be denied because of the absence of hardship.

Ms. Valerie Cooper of Old Litchfield Road expressed that she and the majority of the abutting property owners of 101 Wykeham Road are not in support of the project. They are concerned that the traffic that would accompany this project would greatly increase. She stated that to consciously place an inn on Wykeham Road would be irresponsible and she asked that the variance be denied. Mr. Richard Kaylor from Old Judea Cemetery Road stated that he was in favor of the application. Dr. John Ewing of 86 Wykeham Road stated that he was confused by the proposal with the decrease of coverage and the rain gardens, etc. He would like to hear more on the hardship of the request. He questioned if some of the letters of support include some of the 'silent investors' of the proposed inn. Mr. Joe Pullaro stated that he thought the inn would benefit the growth of the Town of Washington and provide jobs. Mr. Eric Federer stated that he talked to Mr. John Trevenen at the Mayflower Inn and was told that only three of the over 100 employees that work at the Mayflower are residents of Washington. He stated that development needs to fit with the scope of the town. Mr. William Smith of Golf Course Road stated his concern for the paths access for emergency vehicles and that it may be necessary to increase coverage in the future to allow access for these vehicles. Mr. Szymanski stated that he recognizes the fact that there are outstanding issues and will provide answers prior to the next meeting.

Motion: to continue public hearing to consider application ZBA-0813/Wykeham Rise LLC, 101 Wykeham Road, application for variance, Zoning Regulation 11.5.1 (lot coverage), by Randy Snook, seconded by Kathy Leab, by a 5-0 vote.

The Zoning Board of Approval agreed to continue the public hearing for ZBA-0813 on August 28, 2008.

Motion: to adjourn at 10:19 pm was made by Mr. Sedito, seconded by Ms. Roberts, by a 5-0 vote.

Submitted subject to approval,
Shelley White, Land Use Clerk