

TOWN OF WASHINGTON  
Bryan Memorial Town Hall  
Post Office Box 383  
Washington Depot, Connecticut 06794  
Zoning Commission Regular Meeting  
July 22, 2019

7:30 P.M. – Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Werkhoven, Mr. Reich, Mr. Averill

**MEMBERS ABSENT:** Mr. Solley, Mr. Armstrong

**ALTERNATES PRESENT:** Ms. Radosevich, Ms. Rebillard

**ALTERNATES ABSENT:** Mr. Sivick

**STAFF PRESENT:** Ms. White, Mr. Tsacoyannis, Ms. Rill

**PUBLIC PRESENT:** Mr. Sneller, Ms. Klein, Ms. Hill, Mr. Hubelbank, Ms. Nicholas, Ms. King, Mr. King, Mr. Colangelo, Ms. Revere, Mr. Cain, Mr. Tittmann, Mr. Ferrell, Mr. Doherty, Ms. Noeding, Ms. Gorra, Ms. Wilkins, Mr. Wilkins, Mr. Griffith, Mr. Yorzinski, Other Members of the Public

Mr. Reich, who will be filling in for Chairman Solley this evening, called the meeting to order at 7:30pm.

**PUBLIC HEARINGS (1min. 23sec.):**

**Kandel, 28 Tinker Hill Road, for a Special Permit from Section(s): 17.9 – Replacement of a Nonconforming Structure, and 11.6 – Minimum Setback and Yard Dimensions – Replacement of a Boathouse.**

Seated for this hearing is Mr. Reich, Mr. Werkhoven, Mr. Averill, Ms. Radosevich, and Ms. Rebillard.

Mr. Tittmann of Tittmann Design and Consulting, representative of the property owner, stated that this application had been heard by the Zoning Board Appeals, and after designing the proposed boathouse to their specifications, discovered that it would no longer require a Variance from them, but rather a Special Permit from the Zoning Commission. Mr. Tittmann explained that the proposed structure would have the exact same footprint, however be a bit less in height. He presented plans to the Commission titled, “Kandel-Levin Boathouse – Washington, CT Zoning Application, submitted 06/13/2019”, dated 04/25/2019, by Tittmann Design and Consulting, stating that there is currently electric running to the current boathouse, but there is no plumbing and no heat. Mr. Tittmann went on to say that the proposed would strictly be used as a boathouse with just an updated look.

Attorney Peirce from the Law Offices of Conan and Wolfe, representing the Lake Waramaug Association stated that his client was concerned with the proposed boathouse in regards to Zoning

Regulation Section 17.9.2 – “The application shall also be accompanied by proof that the nonconforming aspects of the existing structure are lawful (i.e., that they were lawful at the time the structure or the nonconforming aspects of the structure were created), as well as a statement of the intended use of the replacement structure.”

Attorney Pierce stated that the applicants have not provided any documentation proving that the current boathouse was legally built. He also pointed out that the applicant had not provided a letter from a licensed Professional Engineer stating that the current boathouse was beyond repair and needed to be torn down, per Section 17.9.3 of the Zoning Regulations, as well as Section 17.9.B.3 – “The use of the nonconforming replacement structure must be a permitted use”, stating the current structure has living quarters inside of it.

Mr. Tittmann stated that his clients were not proposing anything irresponsible, that they intended to use the proposed structure as simply a boathouse and nothing more. Mr. Tittmann acknowledged that he did not provide any proof indicating that the boathouse was lawful at the time the structure was created because there was no record of it being built, and that he did not provide a letter from a Professional Engineer stating that the current structure needed to be torn down because he did not believe this to be the case.

Mr. Reich questioned whether or not Mr. Tittmann has known that these requirements were needed when submitting the application, to which Mr. Tittmann responded that he was aware of the requirements, however there was no record of the boathouse in Town Hall. Mr. Averill asked if the owners possibly had a picture of the boathouse that could possibly date the structure. Mr. Tittmann stated that there was one picture of what is assumed to be the original boathouse, but it was much larger and covered the entire deck area. Mr. Reich asked Mr. Tittmann if he could estimate the decade in which the boathouse was built, and Mr. Tittmann stated that based on the materials and condition of the overall structure, he would guess 1940's to 1950's.

Mr. Reich asked Mr. Tittmann to remind the Commission what other Boards and/or Commissions had heard this proposal. Mr. Tittmann responded that Zoning Board of Appeals had originally seen the proposed, but had asked for the boathouse be scaled down. When Mr. Tittmann had returned to Zoning Board of Appeals with what they had asked, he was then directed to be heard by Zoning because the proposed boathouse no longer required a Variance. Mr. Tittmann stated that the proposed was also heard by the Inland Wetlands Commission where it was approved.

Ms. Radosevich recalled an applicant who had been seen by the Zoning Commission some time ago with a similar request to this, and the Commission had required a letter from a Professional Engineer. She felt that this would be a fair practice and would be consistent.

Mr. Werkhoven questioned whether or not the look of the boathouse would meet with the aesthetics of the neighborhood currently. Mr. Tittmann stated that the Lake is very diverse as far as structures and design, however, he felt the proposed boathouse would be more of standard than the current structure, which looks very dated in comparison to other sections of the Lake.

Mr. Averill questioned if there was any information found in the Town Clerk's office such as a deed, stating anything about the boathouse. Mr. Tittmann responded that there wasn't anything on file, and Ms. White, Land Use Administrator, confirmed. Mr. Reich stated that finding records and history on some of these properties is a hard task, especially secondary buildings. Mr. Averill stated that he felt

that it was necessary to come up with a date in which the current boathouse was built, even if that meant finding an old dated photograph.

**MOTION: To close the Public Hearing regarding Kandel, 28 Tinker Hill Road, by Mr. Werkhoven, seconded by Mr. Averill, passed 5-0 vote.**

**Request of Flirtation Farms, 72 New Milford Turnpike, for a Special Permit from Section(s): 4.4.6, 13.14 – Room and Board or Bed and Breakfast Establishment – For a Seasonal Outdoor Campsite (26min 45sec.):**

Ms. Radosevich recused herself from this Public Hearing. Seated Members were Mr. Reich, Mr. Werkhoven, Mr. Averill and Ms. Rebillard.

Mr. Colangelo, owner of the property at 72 New Milford Turnpike, explained that the tent is technically owned by the company “TentRR”, and is a non-permanent structure that would be considered the “Airbnb of camping”. He explained that most of his clients were affluent young couples from the city that venture here to relax and enjoy the outdoors. Everything is self-contained in the canvas tent that is set on a slate slabs located on his 17 acres of land. Mr. Colangelo stated that his guests are allowed to use a lower-level restroom in his home, and the facilities also have a shower for the campers use.

Mr. Werkhoven questioned the number of campsites on the property, to which Mr. Colangelo responded “just the one”, explaining that the intent of the company “TentRR” was for customers to enjoy a quaint and peaceful setting, and that he had no desire to make the campsite larger in number because it would take away from the serenity of the experience.

Mr. Averill questioned whether or not the slab the tent rests upon could or should be considered a structure. He stated that greenhouses were considered a structure, and they could easily be taken down, and felt that if the slab was resting on the ground, it too should be considered a structure. Mr. Tsacoyannis, Zoning Enforcement Officer, explained that Mr. Colangelo would need a Zoning Permit, but felt that the first step was to be approved by the Commission as an allowable use. Mr. Reich referred to a letter written by Attorney Zizka, legal counsel for the Zoning Commission, dated July 18, 2019, stating that, “Since the regulations do not define “room and board” or “bed and breakfast establishment”, we must presume that the terms were intended to be construed in their common, customary sense”.

(\*\*A full copy of Attorney Zizka’s letter is available upon request in the Land Use Office\*\*)

Mr. Cain, of 43 Revere Road, stated that he did not believe that the proposed campsite should be considered a “Bed and Breakfast Establishment” because of the difference of use. He is concerned with sanitation, noise, fire danger, amount of allowable campsites, and the liability of the town.

Mr. Colangelo clarified that “TentRR” has a 2-million-dollar insurance liability policy on the campsite.

Mr. Cain stated that the Town of Washington would not be protected under a contract between TentRR and a private land owner. He said if you were to take TentRR out of the equation, and a

private land owner were to open a campsite under the Bed and Breakfast regulation, that the town would be subject to the possibility of a number of campsites on multiple properties.

Ms. Hill requested that Mr. Reich read Attorney Zizka's entire letter to the public, Mr. Reich obliged. In Attorney Zizka's letter, he stated that "Bed and Breakfast" was not defined in the regulations, and Ms. Hill clarified that in Section 13.14 it is defined as "rooms within a dwelling".

Ms. Nicholas, closest neighbor to the Flirtation Farms property, stated that Mr. Colangelo and his wife approached her regarding the campsite and she expressed her concerns to them. Ms. Nicholas stated that the Colangelo's took action right away and were very accommodating, and she felt that they were very respectful neighbors.

**MOTION: To close the Public Hearing regarding Flirtation Farms, 72 New Milford Turnpike, by Mr. Averill, seconded by Mr. Werkhoven, passed 4-0 vote, with Ms. Radosevich recusing herself from the hearing.**

**Request of King, 44 Revere Road, for a Special Permit from Section(s): 4.4.6, 13.14 – Room and Board or Bed and Breakfast Establishment – For a Seasonal Outdoor Campsite (47min 49sec.):**

Ms. King, property owner of 44 Revere Road, explained that her family embarked upon this opportunity as a way of drawing in younger families and/or couples to Washington. She stated that her family started off as weekend visitors in Washington, and discovered that the closest place to camp was in Kent, Connecticut. She stated that she and her husband felt that TentRR was a less-invasive approach to an Airbnb situation, because they were not renting out their home or disturbing their land. She stated that her property is 22 acres, and she felt that the campsite was not intrusive to neighboring properties. Ms. King explained that most of her clientele were young families who wanted to have a quiet camping experience without having to deal with crowded campsites. She stated that the Health Department requested that there be access to restrooms, so there is a bathroom in her residence that is accessible from the outside.

Mr. Reich questioned how far the site is from her home, and Ms. King estimated that it would be about a five-minute walk. She stated that the access road to the campsite is a logging road, and is accessible to vehicles. However, they do not allow their guests to use their own vehicles to the site. She stated that, ideally, the campsite is open from May 15<sup>th</sup> to November 15<sup>th</sup> yearly, weather permitting, and that reservations are made via the TentRR website and that a description of the guests must be provided at that time. Ms. King stated that her family has the right to refuse any reservation, and that her family does research guests prior to accepting reservations via social media and the internet. She then went on to explain that there are rules published for their site prior to reservations made that state there are no illegal substances allowed on their property, that there shall be no loud music, and that they have a "leave no trace" policy in place, ensuring that guests take garbage and all other items with them when they go.

Ms. King presented an aerial photograph of her property, showing where the tent currently is. Mr. Reich was not aware that there was already a tent in place, and asked the other Commissioners if they were aware that this was already up and running. The Commissioners stated that they had assumed it was a running business, based on the information from the internet.

Ms. Wilkins, Revere Road resident, stated that herself, her husband and children moved here last year from Kent, Connecticut, mainly because of the Shepaug/Region 12 School System. She stated that Revere Road is a cul-de-sac in a very family-driven neighborhood, and that it was very common to see numerous neighborhood children playing in the street, in neighbor's yards, riding bikes up and down the street, and that she was worried that the campsite would be taking away the integrity of the neighborhood. Ms. Wilkins suggested looking at other town's in our area and how they have quelled these issues from arising.

Mr. Griffith, also a Revere Road resident, stated that he became aware of the campsite last year when a couple parked at the end of the cul-de-sac and walked a cooler down to the campsite. Mr. Griffith said that he was informed that the campsite had been running for three years, without a permit, and was surprised that the owners did not go through the proper permit process.

Mr. Yorzinski, Revere Road resident, stated that he was concerned that this was allowed in a residential neighborhood, questioning if an RV park would be allowed eventually.

Mr. Cain again emphasized that the sanitation and safety concerns of the campsite.

Mr. Reich read a letter from Ms. Marquis and Mr. Kersten, Revere Road residents, dated July 19, 2019 expressing their concern over the safety of the neighborhood.

**MOTION: To close the Public Hearing regarding King, 44 Revere Road, by Mr. Werkhoven, seconded by Mr. Averill, passed 4-0 vote, with Ms. Radosevich recusing herself from the hearing.**

**Request of Klein, 32 Flirtation Avenue, for Special Permit from Section(s): 13.11.3 – Accessory Apartment – Attached – For a Studio Apartment over Garage (1hr. 13min 18sec.):**

Seated for this Public Hearing were Mr. Reich, Mr. Werkhoven, Mr. Averill, Ms. Radosevich and Ms. Rebillard.

Tim Sneller, representing Ms. Klein, stated that there is currently an approved house and garage being built on the property, and Ms. Klein would like to build a studio apartment over the garage for when her son visits.

Mr. Reich read a letter dated July 19, 2019, written by Ms. Klein's neighbor, Mr. Monteville, expressing his concerns over privacy and drainage, explaining that his property is downhill from Ms. Klein's, and that there is currently no buffer between the properties that will result in headlights shining into his dining room. He has requested that a buffer be put into place, stating that he would be willing to help financially with doing so. Mr. Monteville added that, with his property being lower than her driveway, he was concerned that any chemical that could potentially be used on her driveway in the Winter, could potentially seep into his well. He has requested that a drainage plan be submitted per Washington Zoning Regulations.

Mr. Sneller explained that Ms. Klein's driveway was an existing paved driveway, and that there is a drainage swale in two locations to minimize runoff. Mr. Werkhoven asked Mr. Tsacoyannis if he was

concerned about drainage on the property. Mr. Tsacoyannis stated that he did not have any major concerns regarding the drainage and runoff.

Mr. Averill stated that he understood Mr. Monteville's concern about road salt and other chemicals seeping into his well because it has been known to happen. Mr. Averill then questioned whether or not the property owner would be willing to add more of a buffer between the two properties, as suggested by Mr. Monteville, to which Mr. Sneller responded that Ms. Klein would be.

The Commission discussed the need of a more detailed site plan on file. Mr. Sneller stated that he could provide one, and would email it to Ms. White.

**MOTION:** To close the Public Hearing regarding Klein, 32 Flirtation Avenue, by Mr. Averill, seconded by Mr. Werkhoven, passed 5-0 vote.

**MOTION:** To close all of the Public Hearings, by Mr. Reich, seconded by Mr. Werkhoven, passed 5-0 vote.

**REGULAR MEETING (1hr. 26min 17sec.):**

Mr Reich called the Regular Meeting to order. He then seated himself, Mr. Averill, Mr. Werkhoven, Ms. Radosevich and Ms. Rebillard.

**OTHER BUSINESS (1hr. 26min. 27sec.):**

There was no other business for this evenings meeting.

**CONSIDERATION OF MINUTES (1hr. 26min. 36sec.):**

**MOTION:** To accept the Meeting Minutes of the June 24, 2019 meeting and the July 8, 2019 Special Meeting, by Mr. Werkhoven, seconded by Mr. Averill, passed 5-0 vote.

**PENDING APPLICATIONS (1hr. 27min. 33sec.):**

**Request of Kandel, 28 Tinker Hill Road, for a Special Permit from Section(s): 17.9 – Replacement of a Nonconforming Structure, and 11.6 – Minimum Setback and Yard Dimension – Replacement of a Boathouse.**

Mr. Averill stated that the regulations in place were intended so that home/property owners were not simply tearing down structures because they did not like the look of them anymore, that a Professional Engineer that was willing to sign their name to something stating that it was not structurally sound and needed to be torn down. He also explained that because the current boathouse was considered a nonconforming structure, that it had to be proven that at some point in its history, that it was a legal structure. Because of this, Mr. Averill stated that he would find it difficult to vote to approve the proposed plan.

Mr. Reich stated that the Public Hearing could be continued to next month's meeting, so that the applicant could attempt to gain a letter from a licensed professional engineer, as well as proof that the current nonconforming structure was legal when built.

Ms. White pointed out that the applicant would actually be changing the current use, (which currently houses a sleeping area and stove), to a permit-able use – just a boathouse.

**MOTION:** To continue the Public Hearing for Kandel, 28 Tinker Hill Road until the August 26, 2019 meeting, by Mr. Werkhoven, seconded by Ms. Radosevich, passed 5-0 vote.

**Request of Flirtation Farms, 72 New Milford Turnpike, for a Special Permit from Section(s): 4.4.6, 13.14 – Room and Board or Bed and Breakfast Establishment – for a Seasonal Outdoor Campsite (1hr. 40min.53sec.):**

Ms. Radosevish recused herself from the deliberation of this this hearing.

Ms. Rebillard stated that she did not feel this should be considered a Bed and Breakfast Establishment, and Mr. Averill agreed stating that this was a commercial glamping site situated in the R-1 district. Mr. Reich stated that he did not feel that this was an acceptable use, and Mr. Werkhoven agreed.

**MOTION:** To deny the request of Flirtation Farms, 72 New Milford Turnpike, for a Special Permit from Section(s): 4.4.6 and 13.14 – Room and Board or Bed and Breakfast Establishment – For a Seasonal Outdoor Campsite, by Mr. Werkhoven, seconded by Mr. Reich, passed 4-0 vote.

**Request of King, 44 Revere Road, for a Special Permit from Section(s): 4.4.6 and 13.14 – Room and Board or Bed and Breakfast Establishment – For a Seasonal Outdoor Campsite (1hr. 46 min. 20sec.):**

**MOTION:** To deny the request of King, 44 Revere Road, for a Special Permit from Section(s): 4.4.6 and 13.14 – Room and Board or Bed and Breakfast Establishment – For a Seasonal Outdoor Campsite, by Mr. Werkhoven, seconded by Mr. Averill, passed 4-0 vote.

**Request of Klein, 32 Flirtation Avenue, for a Special Permit from Section(s): 13.11.3 – Accessory Apartment – Attached – For a Studio Apartment Over Garage (1hr. 47min 10sec.):**

Ms. White stated that there were two options for this hearing; the application could be continued until the August 26, 2019 meeting so that the Commission could view the drainage plans, or it could be passed with the condition that the drainage plan be provided to the Land Use Office.

Mr. Werkhoven stated that he did not mind voting to pass it with that condition, but would like to add tree buffering to the site plan as well. Mr. Averill agreed.

**MOTION:** To approve, with conditions, the request of Klein, 32 Flirtation Avenue, for a Special Permit from Section(s): 13.11.3 – Accessory Apartment, Attached – For a Studio Apartment over Garage, by Mr. Werkhoven, seconded by Mr. Averill, passed 5-0 vote.

**ENFORCEMENT REPORT (1hr. 50min 35sec.):**

Mr. Tsacoyannis reported that there was some progress being made with the Hodges property on Roxbury Road. All American Waste has stepped in to remove a number of the containers from the property, and he was hopeful that this would continue.

**PRIVILEGE OF THE FLOOR (1hr. 53min. 27sec):**

Mr. Ferrell of Dodge Farm Road, asked Mr. Tsacoyannis if he had been able to run out to the site at Dodge Farm Road, as requested. Mr. Tsacoyannis stated that he had not been able to coordinate a time with Mr. Wright, but would be doing so within the next few days. Mr. Ferrell then referred to a previous Public Hearing that evening where there had been a discussion regarding the previous use of this particular property, and asked the Commission to clarify whether or not the regulations intended for property owners to use a property as a non-permit able use just because it had been used that way in the past and if that was legal. Mr. Ferrell went on to question if an application were to state that the proposed home was to have two bedrooms, a garage and a breezeway, that this should be what is constructed on the property, or it will need to return to Zoning for approval. Mr. Reich stated that would probably be the outcome, based on the approved application, and if not there would be an order of cease and desist if something was done without permit. Mr. Ferrell then questioned the legal amount of people that could rent a Single Family home. Ms. White read the definition of “Family” as stated in Washington’s Zoning Regulations aloud, reading; “Any number of individuals related by blood, marriage or adoption, or not more than 7 persons not so related, living and cooking together as a single non-profit housekeeping unit. A family may include domestic or agricultural employees.”

Mr. Doherty of Dodge Farm Road, questioned whether or not 3 non-relatives would be allowed to reside on the property. Ms. White stated she believed it was just seven total, related or not, unless there were other circumstances such as number of minor children residing there as well. Mr. Doherty asked if this could be considered a Boarding House, to which a number of Commissioner’s responded, “No”.

Mr. Doherty and Mr. Ferrell expressed their concern over the amount of vehicles travelling up and down Dodge Farm Road, calling it a safety issue. Mr. Tsacoyannis explained that there could be workers on the property, but when he had driven to the property last week, there were no vehicles on site at the time.

With no further public comment, Mr. Reich closed the privilege of the floor.

**MOTION:** To adjourn the July 22, 2019 meeting at 9:35pm, by Mr. Averill, seconded by Mr. Werkhoven, passed 5-0 vote.



Respectfully Submitted,

Tammy Rill

Land Use Clerk

July 29, 2019

\*Filed subject to approval

\*\*All documents are on file in the Land Use Office, and a digital recording of this meeting is available upon request