

# July 23, 2012

**Present:** Mr. Fitzherbert, Mr. Reich, Mr. Solley, Mr. Werkhoven, Mr. Abella

**Alternates Present:** Mr. Wyant, Mr. Dutton

**Absent:** Dr. Craparo

**Staff Present:** Shelley White, Janet Hill, Mike Ajello

**Others Present:** Mr. Clark, P.E. Mr. Lautier, Mr. Frank, Mr. Worcester, Architect, Atty. Fisher, Mr. Kleinberg, Mr. Wilson

Mr. Fitzherbert called the meeting to order at 7:30 p.m.

## **PUBLIC HEARING**

Seated: Mr. Fitzherbert, Mr. Werkhoven, Mr. Reich, Mr. Abella, Mr. Solley

### Lautier/56 June Road/Special Permit: Section(s) 3.11.3/Detached Accessory Apartment:

Ms. Hill read the legal notice published in Voices on Wednesday, July 11 and Sunday, July 18, 2012 and the list of documents in the file. Mr. Worcester, Architect, was present to represent the Lautiers for this application. The Commissioners and Mr. Worcester looked at the drawing titled Site Plan, prepared for Tim Lautier – Proposed Garage and Accessory Apartment, by Oakwood Engineering, sheet 1 of 1 with a revision date of 5-20-12 and the drawing titled First and Second Floor Plans, Mechanical Plans prepared for Garage - Lautier Residence, by William W. Worcester Architect, sheet A-1, dated 5/1/12. Mr. Worcester stated that the proposed accessory apartment would be 24' x 35,' approximately 840 sq. ft. and would have exterior stairs for access. The Commission looked at the drawing titled Elevations for Garage - Lautier Residence by William W. Worcester Architect, sheet A-2, dated 5/1/12. Mr. Reich asked what would be visible from Lake Waramaug. Mr. Worcester stated that the gable of the proposed garage would most likely be visible from the Lake.

The Commission and Mr. Worcester looked at the Site Plan and discussed the retaining wall, which was included on the site plan. It was noted that a variance for the side yard & front yard setback has been granted by the ZBA for the retaining wall. There was a brief discussion regarding the gable as the Commission looked at the Floor Plans.

Mr. Fitzherbert stated that this property is very unique because of the steepness and there is already an existing retaining wall but the driveway is sinking and he wonders how stable the existing retaining wall is and questions the constructability of this retaining wall in such close proximity to the Town's right of way. Mr. Clark, P.E. and the Commission looked at the Cross Section of the proposed retaining wall Section B-B and C-C on the drawing titled Sections and Details, prepared for Tim Lautier – Proposed Garage and Accessory Apartment, by Oakwood Engineering, sheet 2 of 2 with a revision date of 5-20-12. Mr. Clark stated that the existing wall has some trouble in spots where it is vertical and the pavement is breaking. He stated that there is no shoulder so they are proposing a sloped retaining wall that would be raised approximately 2 feet above the pavement of the driveway. He stated that building the wall a little higher than the pavement allows for a wheel stop and extending it would allow for an area that would provide more room for larger trucks and emergency vehicles. Mr. Clark stated that they would be taking the stone

out of a portion of the existing wall, rebuilding it and keying existing stones into the existing slope and back filling with shot rock, which would make a stable wall and platform. Mr. Fitzherbert asked how a 12-foot high retaining wall would be stabilized. Mr. Clark stated that the proposed wall is 12-feet high in spots and that they start by finding out what the base material is, how it is keyed in to the existing slope and what kind of material is being held back. He stated that the foundation material is mostly ledge and they would key the wall into the existing grade and then expose the rock and make a shelf so the stones are keyed in to the slope. He stated that the grade levels out at the property line so there is a natural key point at that location. Mr. Clark stated that the material that would be held back by the proposed retaining wall would be shot rock, which does not hold water and these are the three criteria that make a stable wall.

Mr. Fitzherbert stated that the retaining wall is within the Zoning Commission's jurisdiction because of the safety factor. It was noted that the proposed wall would be within 3 feet of June Road. Mr. Wyant stated that he believes that this is an acceptable method of building a secure retaining wall. Mr. Clark stated that the stones would be dry stacked. Mr. Solley asked if they had considered backfilling with some crushed stone and installing some PVC coil pipe and filter fabric to relieve the hydraulic pressure. Mr. Clark stated that the blasted rock is similar to crushed stone but a little bigger and they will use crushed stone to set the rocks in place but there will most likely not be much water behind the wall. He stated that they would be putting filter fabric on the shot rock where the grass area would be per the recommendation of the IWC.

Mr. Fitzherbert asked what would happen if ledge is not found to be at the base. Mr. Clark stated that based on numerous test probes they have done there is ledge and maybe a bit of shale. There was a brief discussion regarding the type of rock that exists in the location. Mr. Solley asked how much rock would have to be blasted out for the construction of the garage. Mr. Clark stated that they are estimating 1650 – 2000 cu. yds. would need to be removed.

Mr. Reich asked how many houses are above the Lautier property and what is the elevation difference from the bottom of the driveway to the proposed garage. Mr. Ajello stated that there are one or two houses that use the road regularly and approximately 10 cottages that would use the road more on the weekends. Mr. Clark stated that the elevation from the bottom of the driveway to the proposed garage is approximately 720 to 790 ft.

There was a brief discussion regarding the dangerous turn of f of 45 on to June Road. Mr. Lautier stated that he was told that the corner was going to be fixed 20 years ago. He stated that he salts and sands the driveway before storms and everyone can get their vehicles up the driveway. Mr. Lautier stated that the bottom part of the driveway has a 19-degree slope and the section from the sharp turn to the parking is about 24 degrees. Mr. Clark stated that having more room at that corner would allow for larger construction trucks and emergency vehicles to get up the driveway easier. There was a brief discussion regarding the capabilities and alternatives of emergency response vehicles accessing the property.

Mr. Fitzherbert stated that the Zoning Commission must consider the retaining wall when deliberating on this application because it has to do with soil, drainage and structures as it relates to the proposed detached accessory apartment. He stated that he agrees that part of the wall needs to be replaced, but the question is whether the construction is done well enough at 12-feet high and 3-feet from the road and is it safe for anyone traveling June Road.

Mr. Abella asked how long it would take to rebuild the retaining wall. Mr. Clark stated that it would

take a couple of weeks to finish.

Mr. Dutton stated that due to the proximity to the Lake he would rather have the ledge hammered out to create the shelf for the rock rather than have it blasted out and footings poured. Mr. Wyant stated that he agrees with Mr. Clark's proposed method of rebuilding and stabilizing the retaining wall and Mr. Clark is a licensed engineer. Mr. Fitzherbert asked if the building inspector is involved. Mr. Ajello stated that the Mr. Jenks would have to review the design and inspect the foundation before the construction begins. Mr. Lautier stated that Mr. Tracey would be doing the excavating.

Mr. Frank, President of the Lake Waramaug Association, stated that everyone should look at this project with a broader view with respect to the project that is proposed and to development around the Lake and around the Town. He stated that the steepest hills around the Lake are along East Shore Road and there is an increasing incentive, due to available technology, for property owners to force structures into properties that they couldn't before. Mr. Frank stated that he feels that the idea of blasting away at the contours is one that has to be seriously considered and he is not sure that the present Zoning Regulations cover this. He stated that what is being proposed is an intensification of use of a fragile piece of property. Mr. Frank stated that the Zoning Commission must consider the Special Permit standards and he thinks that this proposed plan is not consistent with the Plan of Conservation and Development that discourages alterations to steep slope areas and the Zoning Commission must find that the proposed project is consistent with the orderly development of the neighborhood and the Town. He suggested to the Zoning Commission that if they are considering granting a Special Permit for this project that they consider what affect this will have on other properties around the Lake and around the Town and the incentive property owners will have to shoehorn properties in wherever possible. He stated that the Regulations address excavations exceeding 100 cubic yards and this proposed project involves 2100 cubic yards. He urged the Commission to consider not only this project but also what this may mean in connection with development at the Lake and around the Town and to consider taking a close look at this subject during their review of the Zoning Regulations.

Mr. Kleinberg who lives on West Shore Road stated that as he is driving down West Shore Road there is a view of the clearing of the proposed location of the proposed garage/accessory apartment. He stated that he agreed with everything that Mr. Frank has said. Mr. Kleinberg asked the Commission to consider the amount of blasting and disturbance could be reduced while still providing for at least the garage, which is the resident's right. He stated that he has some concerns as to whether it makes sense to add another residence to a property where there is a question of safety access. At IWC hearing there was actually a larger garage proposed and the amount of disturbance had not been reduced even though the footprint of the building was reduced. If the Commission does choose to approve this he stated that, as a policy, the Commission could consider a reduced amount of blasting and disturbance of this steep slope.

Mr. Worcester explained how the proposed structure was reduced in size from 30' x 54' to 24' x 30' and would not be going into the hill as deep as the previous plan. Mr. Solley stated that the removal of 2100 cubic yards seems to be a lot more than is needed for the foundation. Mr. Clark stated that he has calculated 1650 cubic yards, which could realistically end up being 2100 cubic yards of material that would have to be moved. Mr. Solley asked if the garage could be move 4-5 feet forward. Mr. Lautier stated that the setback from the well had to be considered. Mr. Clark located the well on the Site Plan, which is 25 feet away from the closest footing drain for the proposed structure. Mr. Dutton stated that he did not feel that this proposed plan is aggressive and

that the site dictates it. He stated that if there was a variance that would allow him to build closer to the well it would reduce the blasting but that does not exist.

Mr. Fitzherbert asked Mr. Kleinberg what he meant by the work that has already been done is visible from West Shore Road. Mr. Kleinberg stated that a very large section of soil that is exposed. Mr. Fitzherbert asked what the view would be when the proposed plan is completed, if it is approved. Mr. Lautier stated that grass and trees are going to be planted. Mr. Clark explained the clearing line, landscaping and planting plan.

The Commissioners discussed scheduling a site plan, a special meeting and requesting a review from the Fire Department.

Motion:

to continue the Public Hearing to consider the application for Lautier, 56 June Road/Special Permit: Section: 13.11.3/Detached Accessory Apartment, on July 25, 2012 at 9:00 a.m. at a Site Visit - 56 June Road and at a scheduled Special Meeting on July 30, 2012 at 6:00 p.m. in the Land Use Meeting Room at Bryan Memorial Plaza  
by Mr. Fitzherbert, seconded by Mr. Werkhoven, passed by 5-0 vote.

## **REGULAR MEETING**

Seated: Mr. Fitzherbert, Mr. Werkhoven, Mr. Reich, Mr. Abella, Mr. Solley

### **Consideration of the Minutes**

The Commission considered the June 25, 2012 regular Meeting Minutes of the Town of Washington Zoning Commission.

Motion:

to accept the Zoning Meeting Minutes of June 25, 2012 as submitted, by Mr. Abella, seconded by Mr. Werkhoven, passed by 5-0 vote

### **New Application(s)**

There were no new applications to discuss

## **Other Business**

### Possible Revisions of the Zoning Regulation and Zoning Map:

Atty. Fisher was present representing Mr. Duchin. He stated that he approached the Zoning Commission on behalf of his client who has a property in New Preston Village. Ms. Hill distributed a map indicating the properties that are in the New Preston Business District (B-1) and properties that are partially in the New Preston Business District. Atty. Fisher located the Duchin property on the map. He stated that his client would like to have his property located within the New Preston Business District and at one point during an informal discussion with the Zoning Commission they had expressed interest in expanding the New Preston Business District to include the properties

that are partially in the district. He stated that the B-1 District line runs through the center of the river and Mr. Duchin's property line runs through the center of the river with access from Church Street. Atty. Fisher stated that historically one half of the Duchin house was being used for business purposes and the other half was used for residential and years ago one of the owners of this property wanted the property to be entirely business and the request was turned down. He stated that there are a couple of parking spaces owned by the New Preston Women's Club across the street on Church Street and there is parking available along the widened driveway. Atty. Fisher stated that he brings this to the Commission in the context of the possibility of expanding the New Preston District because his client would like to be part of it. Mr. Solley stated that the parking is extremely limited and that the verbal agreement with the Women's Club that allows the use of parking across the street may not apply to the next owner. Atty. Fisher stated that this is just an initial discussion. Mr. Fitzherbert stated that the Duchin property physically looks like it is tied to the business district and it is set away from the other houses.

Ms. Hill suggested that the owners of the properties that are partially in the B-1 district should be asked if they want to be included in the possible expansion. There was a brief discussion regarding spot zoning. The Commission discussed meeting with the New Preston Business Association. Mr. Solley stated that he would be more comfortable revising the Zoning Regulations to extend the B-1 boundaries if more properties were interested. Mr. Fitzherbert stated revision of the set boundaries for the business districts needs to be considered for all the business districts in Washington and that certain properties lend themselves to being a commercial property rather than a residence.

Ms. Hill suggested that the Zoning Commission either consider a petition from Mr. Duchin or do some research, etc Mr. Solley gave an example how one property just outside the Depot Business District wanted to be included in the business district but it was denied because it was considered spot zoning. Mr. Ajello stated that he did not feel this is spot zoning because it is property that is contiguous of the district. The Commission discussed properties around the New Preston Business District and how they would proceed while including surrounding business/property owners.

Ms. Hill stated that she contacted FOI and was told that a Commissioner that meets with volunteers that are not on the Commission is considered a meeting and requires a recording of the meeting, has to be noticed and must have minutes because it is doing the public's business. Ms. Hill stated that economic development in Town has been a personal concern of hers. She stated that she is encouraged by the discussion tonight and this past fall wrote to the Board of Selectmen about this issue but she is concerned that it is just getting started right now. Ms. Hill suggested that the Commission talks with the representatives from Milone & MacBroom, the Planning Consultants. She stated the representatives plan to talk to the town commissions and they would be having office hours at the Town Hall through out the POCD revision process. There was a brief discussion regarding the timeline for the revision of the POCD.

The Commission discussed the list of revisions that they created. Ms. Hill stated that she would email the list to everyone.

### **Privilege of the Floor**

Mr. Frank wanted to remind the Commissioners that there would be a Public Kick Off Meeting of

the Planning Commission and the Milone & MacBroom on Saturday, July 28, 2012, at 10:00 a.m. in the Main Hall at Bryan Memorial Town Hall, Washington Depot, CT to discuss the revision of the Town Plan of Conservation and Development.

### **Zoning Enforcement**

Mr. Fitzherbert stated that there are regulations to protect the view of Lake Waramaug from the road but he sees that some property owners find there way around these. He stated that there are high hedges that are blocking the view of the Lake. Mr. Fitzherbert stated that the regulations set limits on the types of fences, height of fences and there are three properties at the moment that have 6-foot hedges behind the fences which totally block the view of the Lake. Mr. Ajello stated that in Section 6.6 of the Zoning Regulation that hedges are considered a fence around the Lake. Mr. Fitzherbert stated that he could see why someone might want some privacy but the regulations are set in place to preserve the view of the Lake and the property owners "own the land but they don't own the Lake." There was a brief discussion regarding enforcement.

#### Smith/35 East Shore Road:

Ms. Hill stated that Mr. Woodruff said that Mr. Ajello should not be in the room during the discussion of this property and she wasn't sure if she should bring it up now or ask Mr. Ajello to leave and then discuss the property. Mr. Fitzherbert stated that Mr. Ajello could remain in the room.

Ms. Hill stated that the Town Attorney sent a letter to Ms. Smith by regular mail and certified mail. She stated that the deadline is July 30, 2012 and the green receipt postcard has not been sent back to the Attorney so we are not sure if she has received it. She stated that a copy of this letter was sent to Mr. Woodruff and he called the Land Use Office and told her that he wanted the Commission to determine what course of action it would be take at tonight's meeting if Ms. Smith didn't respond by the deadline. Ms. Hill stated that she requested that the Town Attorney list the possible actions that the Commission could take and the Attorney told her that it was premature and that the Zoning Commission does not decide the course of action it will take until after the deadline has passed. Mr. Fitzherbert stated that Ms. Smith should come in and start the process and work with Zoning to fix these things.

The Commissioners considered the Zoning Enforcement Report dated July 23, 2012

### **Other Business Cont.**

Ms. Hill stated that the Commission should consider making a second list to prioritize the 23 items they listed from the Zoning Regulations that they would like to consider for revisions.

### **Adjournment**

Motion: to adjourn at 10:15 pm. by Mr. Reich, seconded by Mr. Abella, passed by 5-0 vote.

Mr. Fitzherbert adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk,