

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Commission Special Meeting

MINUTES

November 2, 2023

4:00 P.M. – Hybrid Meeting

MEMBERS PRESENT: Chair Solley, J. Hill, V. Andersen, D. Werkhoven, B. Farrell

ALTERNATES PRESENT: S. Smith

ALTERNATES ABSENT: S. Mongar

STAFF PRESENT: S. White, T. Rill, M. Haverstock, Attorney Zizka

PUBLIC PRESENT: R. Solomon, M. Solomon, J. Averill, M. Purnell, S. Ullram, P. Szymanski, Attorney Sherwood, M. Giampietro, H. Wyant, T. Hollinger, L. Gomez, L. Anderson, S. Payne, H. Barnet, L. Glover, R. Bohening, R. Hunt, K. Hunt, A. Carron, P. Matthews, M. Miner, M. Gorra, R. Wyant, M. Eanes, S. Anson, D. Alex, J. Lodsins, J. Brinton, Other Members of the Public

Special Meeting regarding 101 Wykeham, LLC - Compliance with the sixteen (16) covenants and restrictions of the 2013 Settlement Agreement and the twenty-five (25) Conditions of Approval of the Modification of the Special Permit dated August 28, 2018, from the Motion of Approval for a Special Permit for an Inn - with potential vote:

The meeting was called to order at 4:06pm.

Chair Solley explained that the goal for this meeting was for the Commission to review and discuss the compliance of the Conditions of Approval for the 2018 modification of the Special Permit and the covenants and restrictions of the 2013 Settlement Agreement.

Chair Solley requested that Attorney Zizka explain the interveners rights and why the Zoning Commission is not required to for their approval before holding a vote on the matter.

Attorney Zizka explained that the Commission does not have the legal authority to decide private property rights. The Commission cannot delegate their power over land use. He added that the neighbors could pursue the issue amongst each other and that would be their decision to do so.

Attorney Zizka stated that in 2018 the Appellate Court limited the footprint of the proposed plans, but nothing else. He added that the Commission could not overrule that decision. He went on to explain that there had not been any amending of that Settlement Agreement.

Ms. Andersen questioned whether the Settlement Agreement was a contract and why it was signed by the Zoning Commission. Attorney Zizka explained the Settlement Agreement was not signed by the Commission. The parties agreed to settle privately, and the Commission approved the terms of the Settlement Agreement.

Chair Solley asked Attorney Zizka to explain the approvals by the Fire Marshal, the Department of Energy and Environmental Protection and Aquarion Water.

Attorney Zizka stated that those agencies base their approvals off their requirements. The Zoning Commission cannot decide whether it is approved or not via those agencies.

Chair Solley asked for Attorney Zizka to clarify the Site Plan agreement. Attorney Zizka explained that the Appellate Court agreement was an important read for Commissioner's.

Outdoor Lighting: Section 12.15 of the Zoning Regulations. There have been several improvements by the applicant regarding the outdoor lighting. Mr. Szymanski of Arthur H. Howland and Associates, representing the property owner, stated that the motion censored lighting will be set at a certain percentage so that moths or small animals would not set it off. The lighting at the egress, exit doors, wall mounted lighting, cottages and pool house will be set to 30%. Mrs. Hill requested that this information is included in the site plan. There will not be any lighted windowed cupolas on the cottages.

Mrs. Hill stated that she appreciated that the applicant reduced the amount of lighting.

Attorney Zizka, regarding Condition #23 – adequate water supply for the Inn and its sprinkler system, clarified that Aquarion will supply domestic water but not for the sprinkler system. He added that Aquarion will not supply the public with information on where any extra wells off site are, as it is a safety concern. With the Condition being impossible to meet, that Condition is void. However, another system has been added for the sprinkler system, and Cardinal Engineering agreed that was adequate.

Mr. Szymanski explained that previously approved storage tanks will be installed along with the pump house which Cardinal Engineering asked for a schematic plan for, which was submitted for their review. It was also reviewed by the Fire Marshall. The tanks will be refilled by a water service company.

He added the only change in the plans was the water lines to the pool house. They were originally on the west side of the leeching fields but were moved to the east side of the leeching fields so that they were removed from the restricted coveted area.

Chelsea McCallum of Shipman and Goodwin, representing neighboring property owners of 27 Bell Hill Road, stated that she disagreed with Attorney Zizka, explaining that her clients would be part of the Settlement Agreement as far as consenting to the approval. She cited Washington Zoning Regulation Section 13.1.B.3 – required that a Public Hearing is required for any change or amendment to a Special Permit.

Attorney Zizka responded by stating that he disagreed with the argument that consent is required by the neighboring property owner, who maintained ownership of the property after the original owners involved in the Settlement Agreement. He argued that there is no evidence of that being a factor in the decision and does not feel it applies.

Attorney Sherwood, representing the applicant, clarified that his and his client's goal has been to comply with the conditions of approval. They are not amending the Special Permit in any way.

Attorney Zizka added that this was not a case of amending the Special Permit, but rather satisfying the Conditions.

Mrs. Andersen questioned why there had not been consistent meetings throughout the process so that the Commission was up to speed on everything. Chair Solley explained that in most recent months there

had been questions put forth by neighboring property owners to DEEP and it had taken them some time to go through that process. He questioned whether Mrs. Andersen felt as though she had enough information to vote on the matter. Mrs. Andersen responded by saying, “No. It is too much information to digest”.

Attorney Zizka had to leave the meeting.

Mrs. Andersen questioned whether the public was going to be invited to speak. Chair Solley stated that he would rather have Attorney Zizka present, however, he did agree to allow Ms. Purnell to speak.

Ms. Purnell stated that her letters dated February and May of 2023 were both directly to do with compliance issues for the third-party review. She felt that the math was incorrect and requested that Cardinal respond. She added that due to issues she addressed in her letters, the applicant was not in compliance.

Mrs. Andersen requested that Cardinal write a detailed review of everything they have received and addressed to date and submit to the Commission.

Mr. Solomon stated that he had understood that the Zoning Commission had asked Ms. White, Land Use Administrator, to send Ms. Purnell’s letters to Cardinal for their review, and stated that they obviously had not been reviewed, and could not understand how the Commission could vote on the matter.

Mrs. Andersen requested a packet of all the information for all the Commissioners. Chair Solley and Mrs. Rill, Land Use Clerk, encouraged Mrs. Andersen to visit the Land Use Office to obtain any information she may not have.

Mrs. Andersen questioned what would happen if the Commission did not find that all the Conditions of Approval were met, and if the permit would eventually expire. Chair Solley explained that the Conditions and Settlement Agreement are filed with the deed on record.

Mrs. Solomon clarified the timeline delivery of Ms. Purnell’s letters and questioned why there had not been a review. The Commission briefly discussed the matter once again for clarification.

MOTION: To adjourn the November 2, 2023 Washington Zoning Commission Special Meeting at 6:08pm, by Chair Solley, seconded by Mrs. Andersen, approved 5-0 vote.

Meeting Recording can be found here:

https://townofwashingtoncc-my.sharepoint.com/:u:/g/personal/trill_washingtonct_org/EdElU6bGwhtKukMJdyRI5mIBsZvwKldqpSrJaSUIH-N4mA?e=wIP1PH

Respectfully Submitted,

Tammy Rill

Land Use Clerk

November 7, 2023