

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

MINUTES

July 25, 2022

7:30 P.M. – Zoom Meeting

MEMBERS PRESENT: Chair Solley, J. Hill, D. Radosevich, B. Farrell (arrived at 7:38pm)

MEMBERS ABSENT: D. Werkhoven

ALTERNATES PRESENT: S. Smith, V. Andersen

ALTERNATES ABSENT: S. Mongar

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

PUBLIC PRESENT: O. Lara, E. Hochberg, J. Gorra, R. Solomon, M. Solomon, R. Hackney, C. Carron, A. Carron, C. Rolli, R. Parker, M. Purnell, Other Members of the Public

Chair Solley called the Public Hearing(s) to Order at 7:36pm.

PUBLIC HEARING(S):

Proposal to opt out of the provisions of section 6, subsections (a) through (d), inclusive, of Public Act 21-29. Those provisions would establish a variety of state requirements for the Commission's regulation of accessory apartments (27sec.):

Seated for this Public Hearing are Chair Solley, J. Hill, D. Radosevich, S. Smith and V. Andersen.

J. Hill read her review of Section 6 of Public Act 21-29. In her Conclusion she read: "I think the Zoning Commission should opt out of Section 6 because the following Sections of PA 21-29 are either ambiguous, contain confusing language, would not permit Washington to set any additional standards regarding building height, parking spaces, etc., could impact accessory apartment size currently allowed by further restricting both the maximum and minimum size allowed, or could otherwise over turn general zoning standards such as lot coverage, and setbacks in regards to accessory apartments: 6.a.3, 6.a.4, 6.a.5, 6.a.6.C, 6.a.7.e".

Attorney Zizka emphasized that if Washington did not opt of the Sections by January 1, 2023, all of the provisions are locked, meaning that Washington would no longer have any control over any of the provisions for as long as the Legislature leaves them in place. (12min 00sec.)

V. Andersen questioned if reasons for opting out should be included. Attorney Zizka confirmed. V. Andersen also asked if this needed to be referred to the Planning Commission. Attorney Zizka explained that because this was not a Regulation, it did not. (22min 59sec.)

J. Hill clarified that the Commission was in no way not allowing affordable housing in Washington, that Section 13.11 was still intact, allowing residents to apply for attached and detached accessory apartments (25min00sec.).

J. Gorra, Chair of the Housing Commission, stated that she supported opting out of the Sections.

With no further comments, Chair Solley entertained a Motion to close the Public Hearing.

MOTION: To close the Public Hearing in reference to the proposal to opt out of the provisions of section 6, subsections (a) through (d), inclusive, of Public Act 21-29. Those provisions would establish a variety of state requirements for the Commission's regulation of accessory apartments, By J. Hill, seconded by D. Radosevich, approved unanimously.

Proposal to opt out of the provisions of section 8-2(d)(9) of the General Statutes, as amended by Public Act 21-29. Those provisions would limit the Commission's ability to set minimum parking requirements for residential uses (28min 48sec.):

Seated for this Public Hearing are Chair Solley, J. Hill, D. Radosevich, S. Smith, and V. Andersen.

Attorney Zizka explained that the current regulations concerning parking would be at risk under these provisions.

Ms. Andersen questioned the difference between pool houses and accessory apartments. Chair Solley explained that if there were no bedrooms included, it was considered a pool house. If it had bedrooms, a kitchen, bathroom, etc., it would be considered an apartment (35min 09sec.)

With no further comments, Chair Solley entertained a Motion to close the Public Hearing.

MOTION: To close the Public Hearing in reference to the proposal to opt out of the provisions of section 8-2(d)(9) of the General Statutes, as amended by Public Act 21-29. Those provisions would limit the Commission's ability to set minimum parking requirements for residential uses, by Ms. Andersen, seconded by Ms. Radosevich, approved unanimously.

REGULAR MEETING:

Chair Solley called the Regular Meeting to Order at 8:12pm.

He then seated himself, J. Hill, D. Radosevich, B. Farrell and V. Andersen.

Consideration of the Minutes (36 min 57sec.):

R. Hackney of West Shore Road submitted the following statement for the Commission's consideration:

"In the minutes as drafted I was reported as having discussed short term rentals and urging the Commission to enforce the rules regarding single family homes. What I actually stressed, and spoke about at the beginning of my remarks, was the letter from Town Attorney Zizka (printed in the May 25th minutes) in which Attorney Zizka stated that the current zoning regulations were unambiguous in prohibiting the use of any single family home by more than 7 un-related people, and that therefore the Town had every right to enforce that rule, whether such use was in conjunction with short term rentals or otherwise. I would appreciate it if the minutes could reflect my desire to see the Town enforce its unambiguous rules against use of single-family homes by more than 7 un-related people".

The Commission agreed to amend this portion of R. Hackney's request for the Minutes.

The Commission discussed adding Short Term Rentals to the next Agenda.

J. Hill submitted the following corrections for the June 27, 2022 Minutes:

"Last sentence on p. 1 – I don't recall that this was noted. Per my memory, what I said was: According to the ZBA Minutes, the Zoning Board of Appeals had already addressed this issue and so it was not necessary for the Zoning Commission to do so.

P. 5 – 2nd paragraph under Priv. of Floor: 3rd line revised to read – Ms. Hill stated that she did not think a Cease and Desist Order should be issued at this time because the property owner had already taken steps to resolve previous potential violations of the Regulations and suggested rather that she, Chairman Solley, the ZEO and property owners meet to discuss the severity of the issues and possible solutions".

MOTION: To approve the June 27, 2022 Washington Zoning Commission Regular Meeting Minutes as amended, by J. Hill, seconded by D. Radosevich, approved unanimously.

June 29, 2022 Special Meeting Minutes (57min 05 sec.):

J. Hill submitted the following statement regarding the June 29, 2022 Special Meeting Minutes.:

"I was disappointed in general with the entire minutes because they give the impression that the main focus of the meeting was how the applicant had satisfied most of the conditions and restrictions whereas actually most of the discussion raised questions about whether conditions were satisfied or disagreed with Atty. Sherwood's memo by stating that the conditions were not satisfied. The minutes included all of Atty. Sherwood's points, but not all of the comments from the Commissioner's; important points raised by the Commission were left out, took over 3 1/2 pages to cover Atty. Sherwood's points, but only about 2/3 of a page to cover the Commission's comments, ~~and even presented Sherwood's points in a larger font~~, all of which, I think contributed to the misrepresentation of the focus of this lengthy discussion. While I do appreciate that it does appear the applicant is working to address all of the conditions, a statement from Atty. Sherwood stating a condition has been "satisfied" does not necessarily make it so. That determination is up to the Zoning Commission."

V. Andersen requests that her statement regarding clean-up of the property be added. D. Radosevich added that people often approach Commissioner's regarding project's outside of meetings, and it's good to have comments like V. Andersen's on record. A lengthy discussion regarding the clean-up of the property at 101 Wykeham Road and enforcing the clean-up took place. D. Radosevich reminded the Commission that the current discussion was regarding Consideration of the Minutes, and a Motion was in order.

MOTION: To approve the June 29, 2022 Washington Zoning Commission Special Meeting Minutes as amended, by D. Radosevich, seconded by J. Hill, approved unanimously.

Chair Solley requested that the Commission change the order of the Agenda so that they, (the Commission), could schedule the Public Hearings for the New Applications.

MOTION: To change the order of the July 25, 2022 Washington Zoning Commission Meeting Agenda to receive New Applications, by V. Andersen, seconded by D. Radosevich, passed unanimously.

NEW APPLICATIONS:

Request of Lara, 45 New Milford Turnpike, for a Special Permit, Section: 12.6.C – Home Occupation, for a Lash Studio:

J. Hill questioned the difference between this and a beauty parlor. Chair Solley and S. White explained that this was more of a beauty service than a full salon.

MOTION: To Schedule a Public Hearing for the Request of Lara, 45 New Milford Turnpike, for a Special Permit, Section: 12.6.C – Home Occupation, for a Lash Studio, for the August 22, 2022 Washington Zoning Commission Meeting at 7:30pm in the Main Meeting Room of Bryan Memorial Town Hall, 2 Bryan Plaza, Washington Depot, CT as well as via Zoom Video Conference by Chair Solley, seconded by D. Radosevich, approved unanimously.

Request of Prince, 11 Ives Road, for a Special Permit, Section: 13.11.3 – Accessory Apartment, Detached

MOTION: To Schedule a Public Hearing for the Request of Prince, 11 Ives Road, for a Special Permit, Section: 13.11.3 – Accessory Apartment, Detached, for the August 22, 2022 Washington Zoning Commission Meeting at 7:30pm in the Main Meeting Room of Bryan Memorial Town Hall, 2 Bryan Plaza, Washington Depot, CT as well as via Zoom Video Conference by Chair Solley, seconded by B. Farrell, approved unanimously.

PENDING APPLICATIONS (1hr 09min. 46sec):

Proposal to opt out of the provisions of section 6, subsections (a) through (d), inclusive, of Public Act 21-29. Those provisions would establish a variety of state requirements for the Commission's regulation of accessory apartments:

Chair Solley, J. Hill, D. Radosevich, V. Andersen and S. Smith are seated.

MOTION: To opt out of and refer to the Town of Washington Board of Selectmen, the provisions of section 6, subsections (a) through (d), inclusive, of Public Act 21-29. Those provisions would establish a variety of state requirements for the Commission's regulation of accessory apartments for the following reasons; 1.) To avoid the ambiguity in several provisions of the Statute, 2.) To avoid conflict with existing Regulations the Commission has found to be beneficial and appropriate and 3.) To retain flexibility to adopt provisions based on Washington's specific experiences, community and history. Sections of PA 21-29 are either ambiguous, contain confusing language, would not permit Washington to set any additional standards regarding building height, parking spaces, etc., could impact accessory apartment size currently allowed by further restricting both the maximum and minimum size allowed, or could otherwise overturn general zoning standards such as lot coverage, and setbacks in regards to accessory apartments: 6.a.3, 6.a.4, 6.a.5, 6.a.6.C, 6.a.7.e". By V. Andersen, seconded by D. Radosevich, approved unanimously.

Proposal to opt out of the provisions of section 8-2(d)(9) of the General Statutes, as amended by Public Act 21-29. Those provisions would limit the Commission's ability to set minimum parking requirements for residential uses:

Chair Solley, J. Hill, D. Radosevich, V. Andersen and S. Smith are seated.

MOTION: To opt out of and refer to the Town of Washington Board of Selectmen, of the provisions of section 8-2(d)(9) of the General Statutes, as amended by Public Act 21-29 for the following reasons; 1.) to avoid conflict with existing Regulations the Commission has found to be beneficial and appropriate,

2.) To retain flexibility to adopt provisions based on Washington's specific experiences, by V. Andersen, seconded by D. Radosevich, approved unanimously.

The Commission noted this will now be referred to the Board of Selectmen.

ENFORCEMENT (1hr. 18min. 35.sec):

M. Haverstock reported that July has been a busy month in Washington with several applications and issuance of permits.

M. Haverstock informed the Commission that partial Certificates of Zoning Compliance will not be issued for incomplete projects. She added that she had recently visited a site that was permitted for an office, but had found a refrigerator, a microwave, a sink, a bar area, a daybed, a couch, large screen television – all signs of a detached accessory apartment than an office. The property owner will not receive the Certificate of Zoning Compliance, nor a Certificate of Occupancy due to this.

A discussion regarding the consequences of a property owner not obtaining a Certificate of Zoning Compliance or a Certificate of Occupancy.

D. Radosevich questioned the property located 289 Litchfield Turnpike, stating that she had come across a report by former Zoning Enforcement Officer, Mike Ajello, stating that he had investigated this property and had not just written them a letter as M. Haverstock had done. M. Haverstock reiterated that she had followed the Zoning Regulations and the Enforcement process – which is to reach out to the property owners and question what is happening, which she did and was told by the property owner that there was no business operation on the property. She explained that she does not have the right to go onto property without permission or unannounced.

V. Andersen requested that Section 2.3.2.A – Abandoned Buildings, be added to August's Agenda to discuss the clean-up of 101 Wykeham. Chair Solley said it will be at a later date.

COMMUNICATIONS:

None.

PRIVILEGE OF THE FLOOR (1hr. 40min. 52sec.):

R. Parker of 16 Bell Hill Road stated that he had listened to the recording of the June 29, 2022 Special Meeting regarding the 101 Wykeham Compliance Workshop and observed that there were three areas of concern regarding the property, one being the accessway on Bell Hill Road, as well as the clean-up of the property. R. Parker asked for an update. S. White explained that Attorney Sherwood had requested clarifications that had been forwarded to the Commission, and had only received a response from J. Hill, who had stated that her response was just a draft.

R. Parker also questioned the landscape irrigation plan and whether or not there was one, explaining that this could be a serious issue.

R. Parker explained that as for the accessway, he believed it should have been abandoned at the signing of the Settlement Agreement, and asked the Commission to order a Cease and Desist for this issue.

Chair Solley stated that as-part of the Special Permit Compliance, that the accessway shall be abandoned.

R. Parker questioned if whether or not a complete set of papers and documents be provided by the Applicant.

Attorney Zizka stated that this was a “chicken and egg” situation explaining that the applicant is asking if the changes they have made were compliant so that they can provide a full set of documents, however, they were not receiving a response from the Commission.

J. Gorra, referring to PA-21-29, stated that the Housing Commission would like to discuss at a future date, the need for multi-family housing in Washington. Chair Solley stated the Commission would be discussing PA-21-29 in its entirety, in the very near future.

R. Hackney of West Shore Road asked for clarification and confirmation regarding the permitting and Certificate of Occupancy for a permitted 3-bedroom home that is self-advertising as a 5-bedroom and that there is nothing that can be done about it.

Chair Solley explained that suspected that the listing for this property was counting a den or office as areas to sleep in, and explained that at this point, the Enforcement Officer could not enter the residence and count the bedrooms.

R. Hackney stated that he understood and his only option was going to have to be a private lawsuit.

V. Andersen requested that Short Term Rentals, Air B-n-B’s and VRBO’s are placed on the Agenda. Ms. Radosevich agreed.

ADMINISTRATIVE BUSINESS (1hr. 57min):

The Commission agreed to form a subcommittee regarding PA-21-29 that would be made of members of the Zoning Commission, Housing Commission, and anyone interested.

With Chair Solley, J. Hill, V. Andersen and J. Gorra of the Housing Commission offering to join, they set a tentative date to meet on August 10, at 5:00pm. The subcommittee will be taking their own minutes and will be reporting back to the Commission.

ADJOURNMENT:

MOTION: To adjourn the July 25, 2022 Washington Zoning Commission meeting at 9:42pm, by D. Radosevich, seconded by V. Andersen, approved unanimously.

To listen to this evenings meeting in its entirety, please click here:

https://townofwashingtoncc-my.sharepoint.com/:u:/g/personal/trill_washingtonct_org/EQHdIEhwSzIKgBZZh7C30TMB3W3Xd6teUxu1ueF1RpE6xQ?e=04xUvH

Respectfully Submitted,

Tammy Rill

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Land Use Clerk

July 29, 2022

