

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

MINUTES

September 28, 2020

7:30 P.M. – Meeting Via Zoom Conference

MEMBERS PRESENT: Chairman Solley, Mr. Reich, Ms. Hill, Ms. Radosevich, Mr. Werkhoven

ALTERNATES PRESENT: Ms. Smith, Mr. Sivick

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

PUBLIC PRESENT: Ms. Solomon, Mr. Barnet, Ms. Zukauskas, Mr. Szymanski, Mr. Charles, Mr. Glass, Mrs. Glass, Mr. Baker, Ms. Branson, Ms. Moran

PUBLIC HEARING(S):

Chairman Solley called the Public Hearing to order at 7:36pm. He then seated himself, Ms. Hill, Mr. Reich, Mr. Werkhoven and Ms. Radosevich.

Request of TFCPS, LLC, 280 Nettleton Hollow Road, for a Special Permit from Section(s): 17.9 – Replacement of a Non-conforming structure – for an accessory building (5min 19sec.):

Mr. Szymanski, representative of the property owner at 280 Nettleton Hollow Road, stated that since the August 24, 2020 Zoning meeting, he had the chance to take a closer look at the Washington Zoning Regulations, specifically Section 4 – Farming and Residential District. He explained that Section 4.4 – Uses Permitted by Special Permit, that Section 4.4.20 – Replacement of a Nonconforming Structure per Section 17.9, would be considered a use in and of itself as written.

Chairman Solley explained that the structure was considered nonconforming, but had received a Variance for the Setbacks at least twenty years ago. He stated that the issue currently is that there is not a primary structure on the property, making it unlawful.

Mr. Szymanski explained that the structure was lawfully constructed because of the Variance that was granted, however it is currently considered nonconforming, therefore could be replaced. Ms. Hill questioned whether Attorney Zizka was consulted on this issue or not. Ms. White stated that he was asked if the structure could be replaced without a primary structure on the property, not about the language of the Section.

Mr. Szymanski asked Chairman Solley if he thought it would be best to table this Public Hearing so that he could write specific questions to be presented to legal counsel. Chairman Solley thought that would be best.

MOTION: To continue the Public Hearing for the Request of TFCPS, LLC, 280 Nettleton Hollow Road, for a Special Permit from Section(s): 17.9 – Replacement of a Non-conforming structure – for an accessory building, for the October 26, 2020 Washington Zoning Commission Meeting at 7:30pm – by Chairman Solley, seconded by Ms. Hill, passed 5-0 vote.

Request of Van Veen, 41 East Street, for a Special Permit from Section(s): 13.11.3 – Accessory Apartment – Detached (20min. 16sec.):

Mr. Szymanski, representative of the property owner at 41 East Street, stated that the proposed structure was a two-bedroom guest house with an approved septic system. He went on to explain that a neighboring property on East Street had expressed some concerns regarding visibility from their house, therefore Mr. Szymanski asked the Commission to Continue the Public Hearing until the October 2020 meeting so that they would have the opportunity to work collaboratively with the neighboring property owner to address their concerns.

Chairman Solley stated that he had reviewed the application earlier that day, and was concerned with the property owner building right up to the 25-foot setback, explaining that there was really no wiggle room in case issues arose during the building process.

Mr. Szymanski explained that he used a three prong approach when dealing with the setback issue. He stated that first, the footings are excavated, then the footings are staked. From there, the footings are pinned by a mag nail on each end of the top of the footing to make sure that the foundation wall is properly constructed. Finally, an as-built survey of the foundation would be provided to the Land Use Department prior to framing of the structure to ensure that it complies with the setbacks, and upon completion a final as-built would be provided.

Mr. and Mrs. Glass, owners of a neighboring property on East Street, read a letter of concern dated September 25, 2020 to the Commissioners. The letter read as follows;

“Dear Members of the Commission,

We are writing in reference to the proposed construction of a guest house at 41 East Street. We have lived in Washington for over 33 years and on East Street for almost 20. We recently purchased the organic farmland at 59 East Street for the sole purpose of retaining the bucolic quiet nature of the road. (We had heard that a developer was interested in buying the land and building 2 houses so we bought the farm to prevent this, making sure the land remains as farmland.) We are extremely disappointed to learn that a resident who has lived in our town for less than 6 months is building a guest house both as large as allowed and as close to the farmland as allowed. We are distressed that this large guest house will bring both light and noise pollution. We are also very concerned that it will damage the vernal pool in the wetlands just over the property line. We hope that this was taken into consideration when the initial application was approved as the pond does not appear in the Summer. We hope the septic and guest behavior will not in any way hurt the integrity of the organic farm. We hope this large construction does not hurt the nature of East Street in any way during what we assume will be a lengthy and disruptive construction process or thereafter. We appreciate your time. Thank you very much. Sincerely, Deborah and Daniel Glass.”

Mr. Glass went on to explain that their attorney had been in contact with Mr. Szymanski and that there had been a request for the workers to use the Glass family's service driveway to get to the work location, which they had denied. However, earlier that day a truck doing tree work had used the access road without permission. Mr. Szymanski stated that this was unacceptable, and would follow-up with the property owner and workers the next day.

Ms. Hill asked if there had been an Inland Wetlands permit issued for the work. Mr. Szymanski stated that yes, there had been. Ms. Radosevich questioned if the Inland Wetlands Commission were made aware of the vernal pool. Mr. Reich stated that presumably, the Commission would be aware of the Wetlands area. Ms. White stated that the site plans submitted to the Wetlands Commission did show the property was in the upland review area, however, there was no obligation to the applicant to show Wetlands on a neighboring property.

Chairman Solley suggested that Mr. Szymanski look into this prior to the next Zoning Commission meeting.

MOTION: To continue the Public Hearing for the Request of Van Veen, 41 East Street, for a Special Permit from Section(s): 13.11.3 – Accessory Apartment – Detached, for the October 26, 2020 Washington Zoning Commission Meeting at 7:30pm – by Chairman Solley, seconded by Mr. Reich, passed 5-0 vote.

REGULAR MEETING (46min. 43sec.):

Chairman Solley called the Regular meeting to order at 8:20pm. He then seated himself, Ms. Hill, Mr. Reich, Ms. Radosevich and Mr. Werkhoven.

APPROVAL OF THE MINUTES (46min. 47sec.):

MOTION: To approve the August 24, 2020 Washington Zoning Commission Meeting Minutes as submitted, by Mr. Reich, seconded by Ms. Hill, passed 5-0 vote.

NEW APPLICATIONS (48min.):

Request of Gibson, 47 Kirby Road, for a Special Permit from Section(s): 17.9 – Replacement of a Nonconforming Structure – for a studio/shed.

MOTION: To schedule the Public Hearing for the Request of Gibson, 47 Kirby Road, for a Special Permit from Section(s): 17.9 – Replacement of a Nonconforming Structure – for a studio/shed, at the October 26, 2020 Washington Zoning Commission Meeting at 7:30pm – by Chairman Solley, seconded by Mr. Werkhoven, passed 5-0 vote.

Other Business (48min 14sec.):

Continued Consideration Re: 12.8 Temporary Uses – Revisions –

Chairman Solley stated that First Selectman Brinton had given the okay for the Zoning Commission to meet in person while holding a "hybrid style" meeting, with the public attending via Zoom. He explained that he would like to review the language once more before sending the final version to the Northwest Council of Governments, and they would need at least two months to review it. Chairman Solley asked the Commission if they would like to hold a Special Meeting in early October so this could be done. The Commission agreed.

MOTION: To schedule a Special Meeting for the Washington Zoning Commission for October 13, 2020, 7:30pm to discuss the revisions of Zoning Regulation 12.8 – Temporary Uses and Section 3.2 – Zoning District Boundaries, and extending the waiver to Washington Depot and Woodville – by Chairman Solley, seconded by Mr. Reich, passed 5-0 vote.

Continued discussion regarding the letter from Planning Commission Chair, Wayne Hileman, regarding Section 3.2 – Zoning District Boundaries, and extending the waiver to Washington Depot and Woodville:

The Commission agreed to add this to the Special Meeting Agenda for discussion.

ENFORCEMENT:

Mr. Werkhoven asked for an update regarding 57 Flirtation Avenue. Mr. Tsacoyannis explained that they had been by the Zoning Board of Appeals last month and were set to go back in October.

Mr. Tsacoyannis updated the Commission regarding hedges surrounding Lake Waramaug. He said that so far, he has seen a positive response to his outreach, and was happy with the results.

COMMUNICATIONS:

Letter from Mr. Charles regarding Zoning Regulation 13.15 – Affordable Housing:

The following letter was submitted by Mr. Charles, for the Zoning Commissions consideration.

“AUGUST 24, 2020

TO: Zoning Commission, Town of Washington

RE: Affordable Housing Regulations

From: Chris Charles

At the March 25, 2013 Meeting of the Zoning Commission I suggested language to expand **13.15 Town of Washington or Non-Profit Sponsored Affordable Housing** to include **For-Profit Housing that satisfies CT GS 8-30g** or to add a new Special Permit for **For-Profit Housing that satisfies CT GS 8-30g**, similar to 13.15, but adding specific standards that would have made them less expensive for the owners to operate and maintain, healthier to reside in, better for the environment, and more readily accepted by their neighbors.

Today, August 24, 2020:

As Washington remains frozen around 2.00% of dedicated affordable housing;

As Washington has shrinking housing opportunities for those of modest means, young people, young families, downsizing empty nesters, seniors seeking 'walkable' rental apartments;

As the Pandemic appears to have increased the numbers of affluent residents, making use of available "summer" rentals, as well as Attached and/or Detached Accessory Apartments;

As housing appears to becoming more expensive;

As our family, work, school, Town, religious, recreation, etc interactions, communications, and Town and organizational operations have been disrupted;

We need to ensure that the Economic Development Commission's "*You'll Live It Here*" applies to everyone, especially those that have labored hard or volunteered long to remain or become a part of "living it here".

Expanding the existing **13.15** to include **For-Profit 8-30g Development** might increase the likelihood that some local builders, long-term property owners, or developers would see a path to a project approval that warrants their commitment.

Under existing Zoning Regulations a 3 Acre Building Lot with 10% allowable Lot Coverage might be developed to include an 8,800 SF eight-bedroom home with a three-car garage, 1,200 SF Attached Accessory two-bedroom Apartment, 1,200 SF Detached Accessory two-bedroom Apartment, Pool House, Swimming Pool, Tennis Court, Horseshoe Pit, and Bocce Court;

But, with the same 3 Acre Building Lot, we would not be permitted to create three 1.0 Acre Lots, each with an 1,800 SF three-bedroom home plus a two-car garage (with a Combined total Lot Coverage of less than 6% . (Note that one could add a 1,000+ SF workshop with an Accessory Apartment over the workshop to each of these homes, and still keep the overall lot coverage under 10%.

And, lest anyone think that smaller lots will mean the end of Washington and the beginning of SPRAWL, as an advocate of working forestland and farmland, I can only say that I've made no suggestion to increase Allowable Lot Coverage, but I will suggest affordable housing might be favorable to, for example, 'Future Farmers' ... "*Living it here, Farming it (490) here*".

The Commission might ask why it would adopt this regulation when **CT GS 8-30g** already exists, allowing one to by-pass Zoning Regulations (until a Town meets the State's mandated 10% of Affordable Housing.)

The simple answer is that:

It benefits an applicant to know that there is a roadmap to a project approval, thus avoiding the time and cost for an appeal of a Zoning denial, even if it is a demanding set of regulation;

And, it benefits future owners as the proposed regulations would require the applicant(s) to design and develop quality housing with lower energy costs, Healthy Home air quality, reflective of traditional rural CT, and consistent with Sustainable CT.

The Regulations for **For-Profit Housing that satisfies CT GS 8-30g** could include **13.15.1, 2, 3, 4, and 5** and additional regulations to address:

- a. Energy Efficiency to lower heating, cooling, electric costs.
- b. LEED ND per the POCD
- c. LID for better Storm Water Management
- d. Design and Materials that reflect our history per HDC.
- e. Healthy Home air quality per the American Lung Ass.
- f. Sustainable CT Standards

The same approach could be adapted for and added to:

13.10 Residential Conversion of an Older Home: Allowing an 8-30g option for the new construction of an "Older Home".

13.11 Accessory Apartments, Attached and Detached: Allowing the Main Residence, an attached accessory apartments, and a detached accessory to be built as one structure.

So, why resubmit this now, given that the State has mandated every town to develop a Municipal Affordable Housing Plan?

Because it's 50 years later, promises have been made (Macricostas), opportunities missed (Moore Property), efforts frustrated (multiple), we're stuck at 2.07%, and because the solution will come in many forms, from many groups, many people, through multiple efforts.

So, as the Town begins consideration of the State's mandate to develop ***A Municipal Affordable Housing Plan***, the Zoning Commission will be called upon to advise on how best to achieve a diversity of housing, I am adding these modest suggestions to the Zoning Commission's obvious other sources, like the WCHT with four developments, the Myfield developers, Habitat for Humanity, the **V-2 Washington Depot Residential District** proposed to the EDC by Wayne Hileman, etc.

And, any statement or effort by the Zoning Commission sends a valuable signal to those interested in developing affordable housing, to ***'Build It Here'***, in Washington.

Thank you for your time,

Chris

Possible model for a change to the ZONING REGULATION for a SPECIAL PERMIT to incorporate For-Profit Housing that satisfies CT GS 8-30g

13.XX CT GS 8-30g Affordable or Set-Aside Housing

13.XX.1 Same as 13.15.1

13.XX.2 Same as 13.15.2

13.XX.3 Same as 13.15.3

13.XX.4 Same as 13.15.4

13.XX.5 Same as 13.15.5

13.XX.6 The application shall satisfy the requirements of CT GS 8-30g

13.XX.7 The applicant shall meet with the Land Use Coordinator, Town Planning and Economic Development Director (or representatives of the Economic Development Committee and Sustainability Committee) for an informal review of the application.

13.XX.8 Each dwelling shall be designed to achieve a HERS Rating of ZERO or better. Geo-thermal may not be included in this calculation.

13.XX.9 The Site Development Plan shall incorporate LEED ND Standards.

13.XX.10 The Site Development Plan shall incorporate LID Engineering.

13.XX.11 The construction materials will be harmonious to our community's vernacular.

13.XX.12 The dwellings will be built to Healthy Home Standards of the American Lung Association through PH Standards including an HRV or ERV.

13.XX.13 The development of the property will consider Sustainable CT Standards.”

Mr. Charles stated that he had first submitted this topic approximately seven years ago, however he felt that this was a proper time to bring it up again.

Mr. Reich questioned what the State requirement was as far affordable housing. Mr. Charles stated that 10% was the requirement, and as of right now Washington was at approximately 2%.

Mr. Werkhoven asked if the affordable housing that was recently built on Mygatt Road and Route 202 were currently occupied. Mr. Charles stated that he was unsure. Mr. Reich stated that he would like more information regarding what the town is currently doing regarding affordable housing, and whether or not the housing is being used or not.

Ms. Smith questioned if the State requirement was a mandate, and what the penalty is for not meeting that mandate. Mr. Werkhoven stated that if a developer were to come in, that they could bypass a number of regulations to do so.

PRIVILEGE OF THE FLOOR:

None.

MOTION: To adjourn the September 28, 2020 Washington Zoning Commission meeting at 8:55pm, by Mr. Werkhoven, seconded by Mr. Reich, passed 5-0 vote.

Respectfully Submitted,

Tammy Rill

Land Use Clerk

October 2, 2020

***All documents on file in the Land Use Office**

****Minutes subject to approval**

*****A recording of this meeting is available upon request**

