

• May 2, 2006

MEMBERS PRESENT: Mr. Charles, Mr. Frank, Ms. Gager, Mr. Rimsky, Mrs. Roberts

ALTERNATES PRESENT: Mr. Fairbairn, Mr. Fowlkes

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Owen, Mr. Sears, Mr. White, Ms. Purnell

Mrs. Roberts called the meeting to order at 7:35 p.m. and seated Members Charles, Frank, Gager, Rimsky, and Roberts.

Consideration of the Minutes

The 4/4/06 Regular Meeting minutes were accepted as corrected.

Page 1: 1st paragraph: Mr. Fowlkes was seated until Mr. Rimsky arrived.

Page 3: Line 4: Change "committee" to commission.

MOTION: To accept the 4/4/06 Regular Meeting minutes as corrected. By Mr. Frank, seconded by Mr. Charles, and passed 5-0.

MOTION: To add subsequent business not already posted on the agenda. By Mr. Charles, seconded by Ms. Gager, and passed 5-0.

Other Business

Referral from the Zoning Commission/Revision of the Zoning Regulations/Section 15: Parking and Setbacks and Coverage in the New Preston and Washington Depot Business Districts: Mr. Owen, Zoning Commission chairman, explained the reasons for the proposed revisions. The question the Zoning Commission was trying to address, he said, was, How can we make Washington more like it already is? He observed that most people love the two business districts the way they are, but that neither could be rebuilt to their existing conditions under the current Zoning Regulations. He said to date this has not been an issue because there has not been much new construction in either district, but if the Town was to implement any of the good ideas in the Depot study, the Zoning Regulations would have to be amended. He noted that this was not a problem unique to Washington; that most towns across the country have automobile oriented zoning regulations, which require sprawl. He explained townspeople have become comfortable thinking the Zoning Regulations protect them, when, in fact, they do not protect the sections of Town that are truly unique to Washington such as The Green. He compared the New Milford green, which could not be rebuilt under that town's current zoning to the development along Rt. 7, which is the type of development required under its regs. Another example he cited was parking. Current parking regulations in Town and throughout the country are calculated for maximum use/worst case scenario situations rather than average daily use. He noted the two world trade center buildings would have had to have had six additional towers for parking under Washington's current Zoning Regulations.

Mrs. Roberts noted she had been disappointed that local business owners were more concerned with parking in front of their businesses than they were about the walkability of Town. Mr. Owen stated walkability was key to both the New Preston and Depot business districts. He noted walking was the number one mode of transportation in Manhattan and compared how far people are willing to walk in a

mall vs. how far they are willing to walk in the Depot. He suggested there was no continuity in Town from a pedestrian viewpoint like there was for automobiles and said a major problem was how to get people comfortable walking around the Depot. Mr. Owen added Washington's proposed Zoning regs do not discourage sidewalk access and said he would recommend an endorsement of sidewalks when the revisions are considered at the May 22nd public hearing.

The Depot's perceived parking problem was discussed. Mr. Owen pointed out that residents complain there are no parking spaces when the 6 immediately in front of the Food Market are full, when, in fact, there are many empty spaces throughout Town. He thought there were inexpensive ways the Town could help the situation, such as expanding the available parking area in the rear of the Town Hall by installing permeable pavers and improving the parking at the old Town Garage site. He noted the proposed revisions were not major, but would give the Commission flexibility so it would not be bound by a 1 space per 100 sq. ft. requirement and he referred to the minimum/maximum table in the model parking regs.

Mr. Charles was concerned that the Zoning Commission had drafted the revised regulations on its own rather than first consulting with the public. He also questioned whether Zoning would be able to take on the added responsibilities of administering them. Mr. Owen did not foresee a great increase in development whether the regs were revised or not because both of these districts have little property left to be developed. He also noted the revisions had undergone several drafts, including one implementing the Special Permit process. Atty. Zizka had reviewed this draft and had raised several concerns. He noted the draft regs had been referred to both Mr. McGuinness at the NW Ct. COG and to Planning as required by statute.

Mr. Fairbairn said he was in favor of the flexibility the proposed regulations would add. He asked from an administration standpoint whether these types of applications in the business districts should be handled as proposed by the Zoning Commission or by Special Exception by the ZBA. Mr. Owen responded the Zoning Commission was comfortable with the standards proposed because they had been generally established after considering what already exists in these two districts. He explained the proposed regs would permit new development to "maintain the feel" of what now exists, which is not possible under the current regulations. He noted the proposed flexible regs were similar to those already adopted for the Marbledale Business District, although he did not think Marbledale would ever be pedestrian oriented due to its configuration. Mrs. Hill noted, too, that if the revisions were adopted, decreases to setbacks and increases in coverage would be permitted under the regs, meaning variances or Special Exceptions from the ZBA would not be necessary.

Mr. Charles pointed out the proposed revisions would take authority from the ZEO. Mrs. Hill stated that the process proposed would be similar to the Special Permit process already used by the Commission, noting the Commission has discretion when granting Special Permits.

Mr. Charles asked where the idea for the revisions had come from and whether a build-out for the Depot had been done. Mr. Owen said the Depot study to date had been valuable, but noted it was not possible for the Zoning Commission to make a blueprint for the entire Depot. He said Zoning would work on the problem one step at a time. He also noted that part of the charm of New Preston was that it was not planned and pointed out that development in both districts had been driven in large part by the needs of the community. Mr. Owen stated the proposed regulations suggest to applicants that if they want to alter the business districts, they should do so in ways that are more in keeping with what is already there. He stressed that the revisions were not a radical rethinking of the New Preston and Depot business districts, but were amendments that would provide the Commission with the tools to make possible development that was in character with what already exists in each.

Mr. Charles asked if the septic capabilities of the Depot had been analyzed. He was concerned that with the increase in lot coverage that would be permitted, there would not be enough room for on site septic systems. Mr. Owen said Zoning did not propose to relax the current septic requirements. Mr. Fairbairn said this would not be a problem because properties like the Hickory Stick with 100% coverage have their septic systems under the existing parking lots.

Ms. Gager commended the Zoning Commission for being proactive and adding flexibility to the Regulations to help direct the future development of the business districts.

Mr. Frank pointed out there should be a proposed Section 8.6.8 to correspond with proposed Section 7.6.8 regarding minimum setbacks. Mr. Owen agreed, adding another possible change that would be discussed at the hearing would be to Section 15.3.1. He thought the reference to parking spaces within 1500 ft. of the proposed use was too great a distance and should be decreased to 500 ft.

Mr. White, ZBA chairman, expressed his concern that the overall scope of the proposed revisions was too great. He did not want to start at 100% coverage and have to try to negotiate applicants down. He suggested the enhancement of older buildings should be addressed by Special Exception or Special Permit on a case by case basis, processes, he said, that work well now. He thought the proposed revisions to the business district regs would be too inviting to developers and the flexibility permitted should be the exception rather than the rule. He also questioned the concept of shared off site parking, stating there was no space for it. Mr. Owen responded there was nothing in the proposed regs that did not require adequate parking; the change was that the Commission was giving itself the flexibility to determine what would be adequate. He noted no business in the Depot meets the current parking requirements, pointing out that the Food Market building for example, would be required to have 25 spaces for the store plus one space for each bedroom in the second story apartments and that these spaces would have to be on its own property. In fact, the Market has no spaces on its own property, but shares the available parking on municipal land. He noted much of the Depot parking is actually on Town owned property.

Mr. Charles reminded Mr. Sears that he had suggested a joint meeting of the Planning and Zoning Commissions, Board of Selectmen, and Business Assoc. to discuss traffic and parking and asked that this be conducted before the Zoning Commission adopts the proposed revisions. He complained Zoning did not know the implications of what it proposed.

Mr. Fairbairn noted both the Zoning Commission and the ZBA had historically approved new businesses without the required parking spaces regardless of the Regulations. He did not see any major changes then, with the adoption of the revisions. He noted there was a brief window of opportunity for the Town to help direct the redevelopment of the gas station property, which is located in the middle of the Depot and so important to the character of the village. Mr. Owen noted the revisions to the Zoning Regulations were needed whether or not the gas station property would be developed.

Mr. White again asked that the Special Exception/Special Permit process be retained because it provides both Zoning and ZBA the ability to "negotiate within reason." Mr. Owen answered that the Zoning Commission could accomplish that under the regs as proposed. He noted the Commission's attorney questioned the current Zoning Regulations because they were counter to the Commission's goals and required applicants to obtain variances in order to develop in a manner consistent with the existing character of Town. He had advised the Commission that if the Regulations were the problem, it should not try to solve that problem by varying them. Mr. White said he had consulted with the same attorney who had stated he was concerned the proposed regs would be difficult to enforce. Mr. White suggested the Zoning Commission first try revisions with tougher standards so there would be a reasonable point from which to negotiate.

Mr. Charles again stressed the need for a build-out and a meeting of all involved parties regarding parking. Mr. Owen noted the revisions to the parking regs had been based on the thorough study by the NW Ct. COG and Litchfield Hills Council of Elected Officials. He said there would be further study prior to future revisions about permeable parking surfaces. He stated the parking regulations as they now exist, may not be applied without consequences the Commission does not want.

Mr. Rimsky thought Zoning's approach was sensible. He said with well considered judgment, the Commission could apply the proposed flexible standards and pointed out it was in that Commission's power to say no to unreasonable requests.

Mrs. Hill noted it was a misconception that all properties would be permitted 100% coverage under the revised regs and read part of proposed Section 8.5.1, which listed the circumstances under which this might occur. Mr. Owen noted many of the properties in the business districts are already at 100% coverage and the revised regs would not change this.

Mr. White asked if the proposed revisions were standard in other towns. Mr. Owen responded the typical zoning regulations were what we now have and said Rt. 7 in New Milford was the build-out of the current Washington Zoning Regulations. Mr. White said he agreed with what the Zoning Commission was trying to do, but said the scope was too large.

Mr. Charles asked for a review by a professional who would determine whether the proposed regulations would work. Mr. Owen said the Planning Commission could hire its own consultant if it thought it necessary, but noted in the past consultants had offered plans that did not address the uniqueness of Washington. He said in addition to the model parking regulations cited above, both the Sierra Club and the National Green Building Council found typical local zoning regulations are a problem.

Mr. Fairbairn said it was common sense that the current Zoning Regs did not work and thought the proposed revisions created a workable flexibility.

Mrs. Roberts thought the proposed Zoning regs were looking ahead with vision.

Mr. Owen thought adoption of the proposed regs would not put either business district at risk since new development happens slowly and there are so few applications. Mrs. Hill noted the Zoning Regulations are continually evolving and could be again revised to address additional issues.

Mr. Rimsky noted that fear of what might or might not happen does not necessarily make for good planning. He trusted that Zoning and the ZBA would work together with sensibility to administer revised regulations that would permit new development both consistent with the Town Plan of Conservation and Development and the village centers.

Mr. Charles objected to the proposed regulations because they did not consider limiting factors such as the Health Code and the Inland Wetlands Regulations and he thought they were too open to interpretation. Mr. Owen, on the other hand, thought in reality their scope was limited and read Section 7.5 to illustrate his point.

Mr. Fairbairn and Mr. Frank agreed there would have to be flexibility and subjectivity written into the Regulations to allow the creation of village type instead of strip mall development.

The revised parking regulations as they would specifically relate to the gas station (Ficalora) property were discussed. Mr. Owen noted no matter what zoning regs were in place when an application was received for this property, it would have more parking spaces per sq. ft. of building than any of the other existing area businesses. Mr. Sears asked if under the revised regs, the Ficalora property could have some

of its required parking spaces off site. Mr. Owen said it would be possible. Mr. Sears then noted "someone" would have to keep track of the overall district-wide picture in terms of off site parking. Mr. Fairbairn noted Washington Supply, for example, requires its employees to park in the rear of the Town Hall and said if more businesses required their employees to park in municipal lots, the problem would be solved. Mr. Owen noted that type of solution was up to business owners, not the Zoning Commission. Mr. Owen noted there was a good turnover of parking spaces in the Depot and he had always found available parking.

Mrs. Hill asked where the Town stood on implementation of improvements to Bryan Plaza that would result in improved traffic flow and an increase in the number of parking spaces. Mr. Sears said he thought the business owners liked the idea of diagonal parking. He offered to invite Mr. Donovan from Wilbur Smith and Assoc. to talk about the parking-traffic plan. Mr. Owen noted that the Zoning Commission has nothing to do with how parking is or will be configured in any of the business districts. Changes in parking configuration, he said, do not require Zoning approval. Mrs. Roberts noted the Planning Commission hoped to get feedback from the other land use commissions and from the public regarding which changes to the Depot would be priorities. It was not known at this time whether changes to Bryan Plaza would be the top priority.

Mr. Owen noted the existing businesses currently do not pay for the parking spaces they use on Town owned property. He suggested the Town could charge a fee and use the income to make improvements to the Town owned parking areas.

Mr. Owen noted Zoning would appreciate any recommendations from the Planning Commission for modifications to the proposed language. He explained that if Planning recommends that the revisions be denied, Zoning then would require more votes to approve them, but that it intended to proceed. He said Zoning had been through several drafts and had the approval of its counsel. He added that the proposed revisions were specifically designed to be the minimum changes necessary to work against Rt. 7 type development standards in the Depot and New Preston.

The Planning Commission discussed the proposal.

- Mr. Charles did not think it was well thought out and noted Mr. White said Atty. Zizka was concerned about enforcement. He feared the language that had been drafted was to avoid the charge of spot zoning. He recommended a motion that supported the direction and intent of the revisions, but not the proposed language.
- Mr. Rimsky thought the proposed revisions were a pragmatic approach to preserve the existing character of the Depot. He thought it was between the Zoning Commission and the ZBA to decide who would be in charge of administration.
- Mr. Fairbairn said he had faith that whichever board would act as administrator, it would use subjectivity consistent with the regs as written. He thought the proposed parking regs would legalize the way both Zoning and the ZBA have always addressed parking in the business districts.
- Mrs. Roberts thought the proposed revisions were a step in the right direction.
- Mr. Frank noted that Planning's approval at this point would not preclude objections at the public hearing.
- Ms. Gager said that she supported the direction and intent of the revisions and that she thought it was important for the Planning Commission to approve them. She reminded the members that the Zoning Commission has more knowledge and experience in drafting zoning regulations than the Planning

Commission.

MOTION: To support the proposed revisions to the Washington Zoning Regulations regarding parking and setbacks and coverage in the New Preston and Washington Depot business districts. By Ms. Gager, seconded by Mr. Frank, and passed 4-1. Mr. Charles voted No for the reasons listed above.

Walker Brook Subdivision II, New Milford: Ms. Purnell, Inland Wetlands commissioner, reported the N. Milford Inland Wetlands Comm. had approved the application with 39 conditions and the N. Milford Health Dept. had sent a letter voicing serious concerns about 38 of the 78 proposed lots. She circulated copies of the first letter sent to the N. Milford Planning Commission concerning this application. It focused on state and regional concerns. She proposed a second letter to the Planning Commission to point out how the application is inconsistent with the New Milford Subdivision Regulations and Plan of Development. She passed out a partial analysis for the commissioners to review and asked if the Planning Commission thought there would be merit in sending a second letter. Ms. Purnell noted many of the proposed lots were in the Washington watershed and would impact Walker Brook. She thought the subdivision plan could be revised so it would cause less impacts, but still allow some development on the property. After a brief discussion it was decided Planning would submit two documents at the hearing; a detailed letter to point out how the application is inconsistent with their own regs and a summary sheet to be read into the record. Ms. Purnell said she would email the final draft to the commissioners for comments. Ms. Gager agreed to attend the 5/4/96 hearing with Ms. Purnell. The commissioners thanked Ms. Purnell for her efforts.

MOTION: To authorize Ms. Purnell to write a second letter to the New Milford Planning Commission to show how the current Walker Brook Subdivision application is inconsistent with New Milford's Plan of Development and Subdivision Regulations and to authorize Ms. Gager to present it to the New Milford Planning Commission at its 5/4 hearing. By Mrs. Roberts, seconded by Mr. Charles, and passed 5-0.

Activities in the Town Right of Ways: It was noted Mr. Greenstein had complained about clear cutting in the Town right of way on South Fenn Hill Road, the Planning Commission had discussed the matter, and it had been referred to the Conservation Commission for recommendations. To date there has been no response from Conservation. Ms. Roberts said she had spoken with the First Selectman and had asked for a Town policy to clarify what activities are and are not allowed in Town right of ways. She noted the Commission often requires open space set asides along the frontage of subdivision lots to preserve the rural streetscape. However, when clear cutting is allowed in the right of way between the road and the open space it works against the Commission's efforts to preserve rural character. Mr. Fairbairn said one problem with attempting to regulate this area is that no one knows the exact boundaries of the right of ways and an extensive survey would be very expensive. It was thought residents should have to get permission from the Selectmen's Office prior to clearing the right of ways. It was also suggested the Town website and newsletter be used to educate residents about the preservation of rural character and the need to get permission before cutting and clearing. It was agreed to table further discussion until a report is received from Conservation.

Commission Vacancies: It was noted the Commission has been short one member since Mr. Byerly's resignation. Mr. Fairbairn announced he, too, would be resigning due to conflicts encountered in the real estate business. He will submit a written resignation upon completion of draft revisions to the Subdivision Regulations. The Commission expressed its regret that he would be leaving.

Mrs. Roberts noted a 4/15/06 letter from Mr. Hare regarding a Cornwall Planning and Zoning seminar on June 25th. Mrs. Roberts said she would refer it to the Conservation Commission. Ms. Gager and Mr. Fairbairn said they would attend the seminar.

Mr. Sears reported the school budget passed and the budget for the renovation projects was briefly discussed.

MOTION: To adjourn the meeting. By Mr. Rimsky.

Mrs. Roberts adjourned the meeting at 10:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted, Janet M. Hill, Land Use Coordinator