

October 2, 2007

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

MEMBER ABSENT: Mr. Charles

ALTERNATES PRESENT: Mrs. Braverman, Mr. Carey

ALTERNATE ABSENT: Mr. Fowlkes

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Mack, Mr. Boling

PUBLIC HEARING

Abella/44 Scofield Hill Road/3 Lot Resubdivision/Con't.

Mrs. Roberts reconvened the public hearing at 7:38 p.m. and seated Members Frank, Gager, Rimsky, and Roberts and Alternate Braverman for Mr. Charles.

Mrs. Hill explained that Atty. Zizka had not yet reviewed the proposed language for the conservation easement and driveway maintenance agreement and so since there was nothing new to discuss, Mr. Szymanski, engineer, would not be attending the meeting.

It was noted a letter to request a continuance of the hearing had been expected, but had not yet been received.

There were no comments from the public.

MOTION: To close the public hearing to consider the application submitted by Mr. and Mrs. Abella for a 3 lot resubdivision at 44 Scofield Hill Road unless a letter requesting an extension is submitted by Thursday afternoon, 10/4/07. By Mrs. Roberts, seconded by Mr. Frank, and passed 5-0.

Mrs. Roberts concluded this session of the public hearing at 7:40 p.m.

This public hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Consideration of the Minutes

MOTION: To accept the 9/4/07 Public Hearing - Regular Meeting minutes as written. By Mr. Frank, seconded by Ms. Gager, and passed 5-0.

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

Pending Applications

Abella/44 Scofield Hill Road/3 Lot Resubdivision: The public hearing will be continued to

Wednesday, November 7, 2007 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall if a letter requesting a continuance is received by the end of the day on October 4, 2007.

New Applications

No new applications were received.

Other Business

Brown-Carroll/41 Buffum Road/2 Lot Resubdivision/Conservation Easement: Prior to the meeting Mrs. Hill had sent the commissioners an email to inform them that 1) when he had reviewed the final draft of the conservation easement, Atty. Miles had found ten changes from the original document; not the two that the approval motion had specified, 2) 2.3 and 2.4 had not been revised as had been required, and 3) Atty. Miles had objected that the language in Section 10 that would have given the Town the right to collect court costs, restoration fees, etc. if violations occurred in the open space had been deleted. Mr. Mack explained there had been confusion about which draft was the final draft. He said he had deleted the above referenced language in Section 10 because the open space land was former agricultural land where trees had regrown and it would be necessary for him to cut some and take care of the land without oversight from the Town and the fear that the Town would come after him. He feared over zealous enforcement in the future and said he required the property to be under his control and management. He brought a revised draft to the table in which he said he had restored Sections 2.3 and 2.4 and the language from Section 10, but he did not circulate it. Mr. Rimsky asked whether the language in Section 10 was common and noted that no other applicants had objected to it. Mrs. Hill said she thought so because Atty. Miles had objected so strongly to taking it out. Mr. Frank noted the Town must have a way to enforce the open space provisions and pointed out the easement gave Mr. Mack the right to cut diseased trees. Mrs. Roberts agreed, saying the Town needed recourse against damaging acts such clear cutting. Mr. Mack objected to the Commission's approved version (received 8/15/07) of the easement because he said it was written to protect a nature preserve rather than to protect farmland. Mr. Frank pointed out that the applicant's representatives had drafted the document, that Mr. Mack had been present at the public hearing when it was discussed, and that the final draft sent to Atty. Miles for review was completely different from the one approved by the Commission. Mr. Mack apologized again for the mix up, but said although he had understood that nothing could be constructed in the open space, he had thought that landscaping there would remain under his control. He noted that other parties would have to agree to the easement language and asked if they would not agree to it and he decided to pay a fee in lieu of open space, would another application be required. He said the fee would be \$37,000. Mrs. Hill noted the state statutes governing these fees would have to be followed and Mrs. Roberts read the relevant part of section 8-23. It was noted that since the fee was based on the fair market value of the property prior to the subdivision, it would most likely be higher than \$37,000. Mr. Boling, Conservation commissioner, noted the conservation easement language had been based on one of his own drafts, which had not specifically referenced previous agricultural property, and asked whether the approval could be amended to include language typically found in Steep Rock agricultural conservation easements. Mr. Frank noted the public hearing had been held and such an amendment would change the terms of what had been presented at that time. He also noted that the Commission had not had an opportunity to review Mr. Mack's revised draft and so would be unwilling to comment on it tonight. Mr. Frank briefly reviewed Atty. Mile's comments. It was the consensus to send Mr. Mack's revised document (after it had been revised further to include a provision that herbicides may be used to eradicate invasive species) to both the Conservation Commission and to Atty. Miles for review and that this review would be acceptable under the current conditions of the approval of the application. Mr. Frank asked for a copy of the revised document for each commissioner. He advised Mr. Mack that the Commission must know the document is acceptable to all who are involved before the Commission accepts it. He noted that if the current property owners do not sign it, then it would not be approved and that they may then withdraw.

Procedures for Conservation Easements: Mrs. Roberts noted it has been difficult to find conservation easement language to fit all circumstances and suggested several templates should be drafted; one for agricultural land, one for the preservation of natural land, etc. Mr. Boling agreed that the use of models would help the Commission avoid the type of situation just discussed with Mr. Mack. He thought the model language should be handed out with the subdivision application forms. Mrs. Hill suggested that the Commission no longer accept emails of these documents and only review those that have been stamped approved by the Conservation Commission. Mr. Boling offered to draft conservation easement models for the Commission to review at its next meeting.

Implementation of the 2003 Plan of Conservation and Development: Mr. Rimsky, Mr. Carey, and Mrs. Roberts noted all of the effort that had been put into the 2003 Plan, but said they were disappointed that the Plan had been "basically shelved" and that "no initiatives" had been taken. Mr. Rimsky noted it would soon be time to start work on the next Plan. Mr. Carey thought the proposals for the River Loop property would not come to pass because they had not been based on fact; septic studies had not been done and the soil stockpiles had not been tested for contaminants, for example. He suggested that the Commission focus now on efforts that would immediately impact Washington residents such as improving traffic safety on Calhoun Street and Green Hill Road. He briefly described the traffic slowing sign/strobe light used by Roxbury on Weller's Bridge Road and said there might be grants available to pay for several in Washington. It was the consensus that this could be an effective traffic calming device and the Board of Selectmen will be asked to investigate the use of this type of sign. Ms. Gager noted the Commission had drafted a list of priorities for implementation of the Plan and that this list had been forwarded to the Board of Selectmen. She asked if there had been a response. Mrs. Hill was directed to send them the list again and to ask for a progress report. Mr. Rimsky noted the Town's inability to act to manage pressure makes it more vulnerable in the face of progress. He suggested that all of the Commissions be sent letters asking them to report on their progress. Mrs. Hill pointed out the accomplishments to date, noting that there had been more progress in implementing this Plan than there had been for previous Plans. She said these included: 1) the example the Planning Commission set by conducting Phase I of the Depot Study as it had recommended, 2) establishment of the Housing Commission, 3) improvements in parking in the Depot jointly worked on by the Selectmen and local businesses, and 4) the Zoning Commission's actions to amend the Zoning Regulations to control outdoor residential lighting and to permit flexibility in setbacks, coverage, and parking in the New Preston and Depot Business Districts so that the type of development encouraged by the Planning Commission would be possible. Mrs. Roberts thought it was now time to move ahead with improvements to Bryan Plaza because the public was now accustomed to the absence of the shade trees. She also voiced her disappointment that the Texaco Station property would not be developed innovatively as had originally been proposed to the Zoning Commission and that the new owner would relocate neither the parking nor the building. The commissioners agreed that any parking on this property should be located behind the building to screen it from the highways. It was the consensus that the letters to go out to the Board of Selectmen and various commissions should state Planning's appreciation for the progress made so far. Mr. Carey stated that there is a finite amount of land in the Depot and that the public had been misled into believing that the River Loop property could support housing. He said housing in Marbledale and the Depot looked good on paper, but was not realistic. He urged the Planning Commission to begin working on an update of the Master Plan as soon as possible by building on the charrettes and engaging in creative thinking rather than hiring an expensive consultant. It was noted an updated Plan was not due for five and a half years.

Referral from the Board of Selectmen/Discontinuance of Portion of Old River Road: Ms. Gager pointed out that the residents using this road to access their property were mainly responsible for its poor condition because clear cutting on the hillside above resulted in an increase and an acceleration of the runoff onto the road, but the Town was paying for the repairs. Mr. Carey said he had inspected the road. He did not want the Town to be liable for this section of road and recommended it be discontinued as

soon as possible. He noted if the Town reserved the right for public use and passive recreation, it would also retain liability. After a brief discussion the commissioners agreed that the necessary repairs should be made to the road, all of the rights should be surrendered, and the road conveyed to the adjoining property owners. Mr. Carey was careful to point out that this recommendation was for this section of road only; the Commission would probably want to retain rights for public use on other discontinued roads throughout Town.

Referral from Zoning Commission/Revisions to the Zoning Regulations/Accessory Apartments, Fences and Walls, and Non Conforming Docks: The referral was circulated and will be discussed at the next meeting.

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

FILED SUBJECT TO APPROVAL Respectfully submitted,

Janet M. Hill, Land Use Coordinator