

June 1, 2010

7:30 p.m. Land Use Meeting Room

Members Present: Ms. Roberts, Mr. Frank, Mr. Rimsky, Ms. Gager, Ms. Jahnke

Members Absent:

Alternates Present: Mr. Carey, Ms. Braverman, Mr. Fowlkes

Alternates Absent:

Staff Present: Shelley White, Janet Hill

Also Present: Selectman Nick Solley, Ms. Friedman, Mr. & Mrs. Davis, Mr. Charles, Mr. Dutton, Mr. & Mrs. Boyer, Mr. Shapiro, Mr. Averill, Mr. Monteleone, Ms. Stevens, Mr. Parker, Ms. Peacocke, Ann Compton, Residents

Ms. Roberts called the Public Hearing to order at 7:35 pm.

Seated: Frank, Roberts, Gager, Rimsky, Jahnke

PUBLIC HEARING

Laus/22 Nichols Hill Road/2 Lot Resubdivision:

Ms. Hill read the legal notice published in Voices on Wednesday, May 19 and again on Wednesday, May 26 and read the list of documents in the file. In his letter dated 6/1/10, Mr. Szymanski, Engineer, requested a waiver of Section 5.8.2, The Open Space Requirement, because he said all of the requirements of Section 3.5 have been met. Ms. Roberts asked that he explain in writing, for the record, how the requirements of section 3.5 have been met. Mr. Davis, an adjoining property owner, stated that he was concerned about the stone wall between his property and the proposed subdivision property and asked that it not be disturbed. Ms. Roberts stated that when the Commissioners and Mr. Szymanski walked the property that the preservation of the stone wall was acknowledged. Mr. Davis and the Commissioners looked at the map titled, Record Resubdivision Map, prepared for Patricia A. Laus, Parcel 3, revision date 4/6/10, sheet R-1, by Arthur H. Howland and Associates. They discussed the existing conservation easement. Ms. Stevens, also an adjoining neighbor, asked if there was any consideration of the vernal pool. Ms. Stevens and the Commissioners looked at the Record Resubdivision Map. Mr. Roberts stated that she would prefer to discuss this when Mr. Szymanski, Engineer, would be present. It was decided that the application would be referred to Dr. Bellantoni, State Archaeologist, because it was determined that the property falls in part of an archaeologically sensitive area. Ms. Hill stated that the Highway Department has not submitted approval for a proposed driveway cut. There were no further comments from the Commissioners or the public. This hearing will be continued on July 6th, in the Land Use Meeting Room at Bryan Memorial Town Hall at 7:30 pm.,

REGULAR MEETING

Ms. Roberts called the Public Hearing to order at 7:46 pm.

Seated: Frank, Roberts, Gager, Rimsky, Jahnke

Consideration of the Minutes

The minutes of May 5, 2010 were considered.

Motion:

to accept the May 5, 2010, Regular Meeting Minutes of the Planning Commission as submitted,

by Ms. Gager, seconded by Mr. Rimsky, passed by 5-0 vote.

The minutes of May 11, 2010 Special Meeting were considered.

Corrections:

Page 1: 2nd Paragraph, 3rd sentence, should read: Mr. Frank said that the language was probably intended to meet the bonding requirements.

Motion:

to accept the May 11, 2010, Special Meeting Minutes of the Planning Commission as amended, by Ms. Gager, seconded by Ms. Roberts, passed by 5-0 vote.

Subsequent Business

Depot Floodplain Study

Ms. Roberts read an email, dated May 19, 2010 from Ms. Gager to First Selectman Lyon regarding their meeting with Lenard Engineering concerning the flood plain study for the Depot. Ms. Gager's email states that she has left five messages with FEMA's Boston office and that she has not received any response. She stated that she did speak to a woman in the Washington D.C. office that told her that FEMA is currently working on revisions of their maps all over the country but in order to find out what was going on in our area that she (Ms. Gager) would have to speak to the regional office directly. Ms. Gager's letter addressed the following questions that she has for Lenard Engineering: 1. What is the process that is used to submit to FEMA to request changes to a flood zone, if it is determined that a change should be requested at this point in time? 2. What is the success rate of FEMA recognizing and granting this request? 3. Do they require the information to be submitted in a specific format for the request to be considered? 4. Do they have a time frame for which they must respond by for each request received? 5. If the regional office denies the request, is there a process to appeal to the main office for a review? 6. Are there any USDA grants or Small Town grants that cover such work, should a larger area be considered for the study?

Mr. Carey stated that there was a separate meeting that occurred with the Engineer from Lenard Engineering, Selectman Lyon and Selectman Solley, in which they discussed that the field work to be done would encompass the area from the Hidden Valley Bridge to the Washington Primary School property. Mr. Carey stated that the engineer suggested that every thousand feet would have to be surveyed and recommended aerial photography be used. Mr. Carey stated that the aerial photography would comprise 30-40% of the field surveying. He stated that FEMA is working in the Eastern Connecticut shoreline area and it would be difficult to determine when they would be able to work in the Town of Washington. He stated that Selectman Lyon offered to contact FEMA to see if he could get a timetable as to when they would be able to work here. Ms. Gager stated that the aerial photography would take place in the fall.

Pending Applications

Laus/22 Nichols Hill Road/2 Lot Resubdivision Site Visit

The Public Hearing is continued to the next regular meeting of the Planning Commission on July 6, 2010, at Bryan Memorial Town Hall, at 7:30.

New Applications

There were no new applications.

Other Business

Revision of the Subdivision Regulations/Review of Archaeological Map

Mr. Frank stated that he was not prepared to discuss these revisions and would like to schedule this discussion on the agenda for the Planning Commission's regular meeting on July 6, 2010.

Plan of Conservation and Development – Update: Survey for Business Owners

Mr. Rimsky read his revised questionnaire. The Commission agreed that this questionnaire would not be an 'exact science' and is meant to be conversational. Mr. Rimsky stated that he and Ms. Braverman would work together on scheduling time to speak with business owners.

Zoning Referral Re: Revision of Zoning Regulations: Sections: 2.3.6: approval of applications requiring installation or modification of sewage disposal systems and deletion of current language re: septic approval in sections 13.6 (renumbered), 13.10, 13.11.2.d, 13.11.3.d, 13.14.7, 13.15, and 13.17.5 as they will now be covered by 2.3.6 and Section 13.5 (and renumbering of following sections): addition of new section re: continuance of a Special Permit upon the conveyance of the property and/or change in lessee

Mr. Frank suggested that the Commission act upon above items first. Ms. Hill stated that Health Department and the State procedures have changed over the years and have made the Town of Washington's regulations outdated. She stated that when there is an application with a large septic system, it is required to be sent to the State. She explained that the Town of Washington requires that the application is approved by the State before the Town can accept it. However, the State says they won't look at the application unless it has local approval. This problem was addressed by the proposed revisions.

Ms. Hill stated that Section 13.5 was revised because the Special Permit goes with the property, and the Zoning Commission wanted to make sure that when the property changes hands or there is a new renter that the new owner understood the criteria and limits of the Special Permit. There were no other comments from the Commission or the public.

Motion:

the Planning Commission has no objection to the following changes to the Zoning Regulations recommended by counsel to the Zoning Commission, which changes it finds to be consistent with the Plan of Conservation and Development: Section 2.3.6, relating to approvals of applications involving sewage disposal systems, and related sections; and, addition of Section 13.5, relating to continuation of Special Permits upon conveyance of the subject property,
by Mr. Frank, seconded by Ms. Gager, passed by 5-0 vote.

Zoning Referral Re: Revision of Zoning Regulations: Sections: 4.4.1, 5.4.9 and 6.4.14: addition of "Inn" and specific Special Permit standards as a use permitted by Special Permit in the R-1, R-2 and R-3 Districts; 4.4.1, 4.4.6, 4.4.14, 5.4.1, 6.4.1, 7.4.5, 7.4.12, 8.4.5, 8.4.12, 9.4.8, 10.4.5, 13.14, 13.14.3, and 15.2: deletion of "Tourist Home," "Room and Board Establishment," and "Boarding House," from uses permitted either by zoning or by Special Permit in all Zoning districts and from the "use" column in the parking requirement chart and Section 13.9: deletion of Special Permit standards for Inn and Tourist Home; 21.1.10: deletion of definition of Boarding House and addition of definition of "Bed and Breakfast Establishment;" 21.1.30 (and renumbering of following sections): addition of definition of "Fitness Facility;" 21.1.38: addition of definition of "Inn;" 21.1.65: addition of definition of "Spa;" and 6.4 and 12.1.2: minor deletions to make language consistent throughout text.

Ms. Roberts reminded the Commissioners that their focus was to determine whether or not these

proposed revisions are consistent with the goals of the Town's Plan of Conservation and Development, that this would be a discussion among the Planning Commission members, and that it was not a public hearing. Mr. Frank read a prewritten statement (attached). He stated that the question of 'inns being permitted on Town roads' throughout the residential districts is a difficult question. Mr. Frank, in his statement, discussed his reasons why he did not feel that these revisions were consistent with the Town's Plan of Conservation and Development. Ms. Roberts stated that she agreed with Mr. Frank. Ms. Gager agreed with Mr. Frank and Ms. Roberts that these revisions are not consistent with the POCD and stated that she is concerned with safety and the traffic these inns would generate in residential areas. Ms. Roberts stated that the Town made preserving rural character one of its most important goals when it developed the POCD. Ms. Gager stated that she agreed with Mr. Frank that water quality of Lake Waramaug and the Shepaug River is important to protect in respect to development. Mr. Rimsky talked about what most people consider an 'inn' and that this is not the definition being proposed in this revision. He feels that the definition of an 'inn' should be more precise and that this definition does not work with the goals of the POCD because it is much broader than the Town's historic concept of an 'inn'. Ms. Jahnke stated she agreed with the other commissioners and that she could see an inn in our rural community but not with conference rooms and large dining facilities. Mr. Fowlkes read a section out of the POCD regarding the importance of the private schools in Town and noted that the Planning Commission received letters favoring inns from two of the schools and that the schools needs are important to consider. Mr. Rimsky stated that it would be a good idea to have a place for the parents to stay but questioned whether the inn they stay at needs all these additional facilities. Ms. Roberts stated that she felt the definition should be more carefully written. Mr. Carey stated that he agreed with Mr. Frank's statement and he felt the issue was scale and that the definition that has been proposed is 'unworkable.' Ms. Braverman questioned why the definition of 'Bed and Breakfast' was so specific as to the number of rooms and the definition of 'Inn' was not. Ms. Gager referred to the Natural Resource Inventory Report and Recommendations, by the Town Ad Hoc Conservation Committee, dated November 2000 and said she was concerned that implementation of the proposed inn regulations could impact some of the features the Town is trying to conserve such as scenic roads and environmental quality. Ms. Roberts stated that public comment should take place at the Public Hearing at Zoning Commission Meeting on June 28, 2010.

Motion:

the Planning Commission finds that the Revision of Zoning Regulations regarding Inns, as presented in the referral from the Zoning Commission, dated May 4, 2010, is inconsistent with the Plan of Conservation and Development regarding preservation of rural character, conservation, and environmental issues,

by Mr. Rimsky, seconded by Ms. Gager, by 5-0 vote

Communications

Communications from Mrs. Boyer and Mr. Dutton regarding the revisions to the Zoning Regulations for Inns were distributed prior to the meeting for the Commissioners to review.

Adjournment

Motion:

to adjourn at 8:55 by Ms. Gager, seconded by Mr. Rimsky.

Ms. Roberts adjourned the meeting.

Respectfully submitted,
Shelley White, Land Use Clerk,

Attachment:

STATEMENT FROM PAUL FRANK:

Analysis of this proposal is both difficult and simple. Difficult and complex because men and women of good will have advanced completely opposed views on the proposed regulations, particularly on the question of whether inns should be permitted on town roads, and the Zoning Commission has manfully struggled to come up with a thoughtful approach to resolve the issue. Some members of the public have submitted to us their views in support of the change (local employment, local gathering place, support local schools and provide accommodations for parents and visitors, benefits to the local economy, among others) – and in opposition to the proposed changes (no room number limits, increased traffic, allows otherwise prohibited commercial activities in residential zones, open up narrow residential roads to commercial development, eliminates objective standards and substitutes subjective judgments among others). So – difficult and complex.

But the role of this Commission is limited: we are directed by statute to report on the consistency of the proposed changed regulations with our Plan of Conservation and Development and to offer any other recommendations we deem relevant. So our task is the relatively simple one of taking the proposed changes on the one hand, and our POCD on the other, and determining whether in our view they mesh --- do the proposed changes comport with the goals of the POCD? If we say that they do, that ends the inquiry. And, if we say they do not (since the POCD is by its terms a living instrument), have circumstances or conditions changed in the last seven years to suggest the need to revise the Plan in this respect prior to the end of its usual statutory decade?

My answer to each of these questions is “no”. In my view the primary thrust of the proposed change --- permitting inns with complex accessory functions on local roads --- is inconsistent with the overarching goal of the Plan to preserve rural character by safeguarding the integrity of the town’s residential districts; and I believe that nothing has occurred since 2003 to diminish the strength of that goal. We are faced with this question only because of the purchase of one parcel of real estate, which cannot now be used by the purchaser for his intended purpose. but which would result in a change having profound consequences throughout the entire town.

The issue for me is one of intensity of use and impact on the residential neighborhoods. The POCD recognized the decidedly residential character of the town and that “ Washington is defined and distinguished by its rural character.”

I believe that our judgment as to consistency with the POCD must be based on the broadest permission that might be given under the proposed regulation: an inn of undetermined size with restaurant and bar, a spa, a gym, a retail shop, conference facilities and other like accessory services and facilities, most of which would be available to the general public. This is a revolutionary expansion of the permitted intensity of use of property on a town road in a residential zone--- involving issues of traffic, parking, safety, night time use, lighting, noise and the introduction of commercial operations which are not otherwise permitted in the residential district. I do not believe that the Special Permit Procedure brings this proposal in accord with the POCD.

The Zoning Commission has been sensitive in the past dealing with business uses in residential districts, carefully defining with great specificity the scope of Home Offices, Traditional Home Enterprises and General Home Occupations utilizing criteria “designed to maintain the residential character of the lot and the neighborhood, minimize the conflict of the home occupation use with the surrounding residential uses and protect residential property values”. That concern was appropriately expressed in the Zoning Regulations; it is dwarfed by the magnitude of the Inn and other commercial activities potentially possible under the proposed regulation.

The Impact of the proposed regulation in the R-2 Washington Green residential district and the R-3 Lake Waramaug Residential District, where inns are not presently a permitted use, should also be noted. For the Washington Green District, the POCD recommended consideration by the Zoning Commission of “allowing general home occupations by special permit, with appropriate protections for residential properties”. While that conservative recommendation (allowing slightly more intensive activity in the Washington Green District) was never adopted, and inns have not been a permitted use in that district, it is now proposed that inns (as expansively defined in this proposed change) be permitted in older buildings in the Washington Green District.

Inns are not presently a permitted use in the R-3 Lake Waramaug Residential District, which covers the Lake Waramaug watershed and in which uses are restricted to those which will avoid deterioration of the lake’s water quality and minimize run off and the flow of harmful elements to the Lake. Permitted uses are limited, consistent with its special purpose and must under current language of the regulation “meet the purposes of the district”, language to be deleted in this proposed revision. Inns, which were historically located at the lake in pre- automobile days are no longer permitted because the intensity of their use is not consistent with protection and preservation of the Lake. There are now no inns on the Washington shore of Lake Waramaug. The POCD noted “concern in the community about the amount of development around Lake Waramaug and the impact on water quality in the Lake”. The proposed regulation permitting inns in the Lake Waramaug Residential District is inconsistent with the POCD.

In summary, I believe the proposed change of regulations to permit inns and their accessory businesses on town roads in residential neighborhoods is not consistent with the goal of the POCD to preserve Washington’s rural character. It introduces the potential for commercial activity of high intensity on all of Washington’s winding country roads.