

March 17, 2023

Dear Town of Washington Zoning Commission,

I, Karen Gallagher, 23 year resident of 3 Findlay Road am writing this letter to voice concern over the proposal for 254 New Milford Turnpike in Marbledale, to permit the previously unpermitted parking area which borders my residence.

The proposal submitted by Mr. Pushlar, states that he is applying for a 50% of the 15' setback to the neighboring property under 9.6 minimum setback and yard dimensions. I am asking the Commission to please adhere to the 15' setback.

I am asking the Commission to please retain the 15' setback for this proposal because Mr. Harris and or his agents have trespassed on to my property several times and caused damage. In 2015 during the construction of the septic on his property, my dog's electric fence was broken and part of my physical fence was removed. I addressed Mr. Harris and he did pay for the damage to the electric fence and he did repair the physical fence at that time.

This happened again in 2021 during the construction of the proposal currently under review by the Zoning Commission. Mr. Harris and or his agents once again entered my property and removed my physical fence, broke my dogs electric fence ( which we found hanging in a tree after being cut with a chainsaw), left debris and garbage in my yard from the construction, and placed large rocks onto and over the property line. Additionally, a light post was built on my property. This encroachment was verified by land surveyor, Michael T. Alex, who I hired to stake the property boundary line after my property was damaged for a second time. Mr. Alex's work to mark the property line additionally revealed that Mr. Harris and or his agents also topped a tree on the property line without consent. ( photographs of the marked property boundary line are included for your consideration.)

It is my fear that Mr. Harris and or his agents will damage my dogs electric fence for a third time following potential approval of this project. As a residential neighbor, I do not feel that I should incur further property damage or expenses so that a business, which has become a nuisance to its residential neighbors, may have additional parking space. I do not know if this may be included in any possible motion granted by the Zoning Commission, but I request that it be required that arrangements be made with me so that I can be present for the removal of the light post/gravel on my property.

If the Commission does grant a 50% reduction to the setback distances to my property for this proposal, I request clarification on these distances. In the proposal, it states 7'-6". As often a (-) indicates a range of distances. I would request clarification that Mr. Pushlar meant 7'6" or 7.5'.

Since the construction of this parking area, a large amount of litter has accumulated along the property line, and on my property. ( pictures of this will also be included.)

Having the full setback of 15' will hopefully help reduce the amount of litter that has come onto my family's residence and help reduce the light and noise pollution, and discourage further instances of trespassing onto my property by Mr. Harris and or his agents.

Mr. Pushlar has proposed to add a vegetation buffer to the edge of the parking area under " Buffers 12.3" The plans for the original approved special permit which were submitted by Studer Design, dated 6-24-2015, shows a vegetation buffer along the East Aspetuck River. Looking at the property now it is clear that this buffer was never planted/installed. ( In place of a planting #2 on this plan, which sits right above a small stream, there is currently a dumpster which has overflowed into the stream, and consequently the East Aspetuck River.) My family and I are woken up every Friday morning around 4:00 a.m. by the garbage company emptying this dumpster.

During the 9-17-2015 Zoning Commission Meeting it was clearly stated by Mr. Studar that " The change in lot configuration would not impact the adjoining properties." And that " landscaping had been provided to the extent possible, and noted the plans had been revised to provide more screening between the parking lot and the residential

buildings along the border of the property to the East." My concern would be that following approval from the Zoning Commission for this proposal, the applicant will not install this vegetation buffer, just as the applicant failed to do so in 2015. A 4' high privacy fence is proposed, 11.6.3A, in addition to a vegetation buffer. I do not feel that this fence will suffice in screening cars or their lights from my property.

Mr. Pushlar states in section 15.2 Number of Parking spaces. The new gravel parking area will increase the existing parking area by 20+ spaces to offset the parking that was lost from across the street. This parking lot started being built shortly after a car crashed into the post office across the street and the Whitehorse customer's that parked across the street were getting towed. I have also had issues that required the police at my residence on more than one occasion because of customers from the Whitehorse. One was a driver that crashed into my front yard. Now I have to worry about my family's safety in my backyard with every car that enters or leaves the parking lot.

I am aware that many of these concerns are of a civil nature, but the Zoning Commission does have the authority to have the setbacks enforced which will hopefully prevent any more damage and expenses to me and my property. Having the full setback of 15' will hopefully help reduce the amount of litter that has come onto my family's residence and help reduce the light and noise pollution, and also create less of a risk to my family member's when in the yard.

It should be noted that lighting for this unpermitted parking area does not currently meet Dark Sky regulations. The lights are on all night long, are excessively tall, and have no shroud to reduce pollution. My entire backyard, and rooms in my house are lit up throughout the night by these lights. There are rooms in my house that my family no longer use because of the lighting from the light posts, and the lights from the vehicles. I question the necessity for tall lighting for this parking area.

Additionally one light has been excluded from the plans submitted by Mr. Pushlar. This light is across the river just past the bridge, and faces my property

12.15 Outdoor Lighting in Residential District, The existing lighting will be modified to meet the lighting regulations. Mr. Harris and or his agents added another light after the inland/wetland meetings. This light was never shown any plans including the plans that were submitted to the Zoning Commission. The light is extremely bright there seems to be no consideration for neighbors..

When the Zoning Commission originally reviewed and approved the proposal expansion for the Whitehorse Restaurant in 2015, The Commission members voiced concern for the residential neighbors. I met with Janet Hill, Land Use Administrator, reviewed the plans and felt as though the considerations were fair. In 2015 there was no lighting proposed. Janet M. Hill review Dated 1/26/15 '10. LIGHTING: , there are several dwellings close by and so any lighting should comply with section 12.15 and should be as low in height as practical and the light sources should be shielded and aimed downward and installed so they may not be seen from other properties.' SDA Response to comments dated 9/14/2015 section 8: "The proposed uses and any building or other structure in connection therewith will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations or other nuisance conditions at or beyond the property line." Any proposed lighting will be dark sky- full cutoff that will not create glare/ bright lights beyond the property line". Yet, nearly all of these considerations were ignored or violated with the construction of the parking area. It is a concern that the applicant will not fulfill their obligation to maintain the appropriate setback distances, provide vegetation buffers and comply with the dark skies regulations.

Thank you very much for taking the time to read this letter,

Karen Gallagher























SDA Response to Comments:

White Horse Pub aka

Harris and Sass/254 and 258 New Milford Turnpike

September 14, 2015

Section 13.1.B:

- B. **Standards.** The proposed use, building, and other related structures in connection therewith will conform to the following general standards in addition to any specific standards set forth in the Regulations for particular Special Permit uses:
1. The proposed use and any building or other structure in connection therewith is consistent with the objectives of the Plan of Conservation and Development for the Town of Washington, and the intent and requirements of the Zoning Regulations as such documents may be amended. The proposed building addition will be the same as the existing building relative to the height and materials of the existing White Horse Pub and the existing housing in the business district will exist within the existing buildings as they are today with the introduction of an office within the existing basement of building A. No building façade alterations to the existing buildings that offer housing is proposed.
  2. The location, type, character, size, scale, proportion, appearance, and intensity of the proposed use and any building or other structure in connection therewith is in harmony with and conforms to the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property or substantially or permanently impair the value thereof for all the aforementioned reason stated above.
  3. The nature and location of the proposed use and any building or other structure in connection therewith shall be such that there will be adequate access to it for fire protection purposes and other emergency services. The existing buildings will primarily remain as they are. Each unit is equipped with two means of egress in case of an emergency with at least one access through fire escapes. Paved surfaces will be added allowing emergency vehicles closer access, offering a solid base for vehicles and allowing for snow removal close to the building in winter. The proposed kitchen of the existing restaurant building will be relocated within the building addition providing better access than the existing location in the back of the building, having direct access to paved service.
  4. The Town's existing rural street network, which includes state highways and Town streets serving the proposed use and any building or other structure in connection therewith are adequate, including without limitation, in width, grade, alignment, *capacity*, and sight lines to carry prospective traffic; that provision is made for entering and leaving the property in such a manner that no undue hazard to traffic or undue traffic congestion is created; and that adequate off-street parking and loading facilities are provided. (See the Zoning Data Chart on SD-2). Proposed parking has been provided in excess of the minimum required parking. The proposed number of parking spaces will only improve the current parking situation. Arrangement of the proposed parking has been planned in such a manor to provide circulation and spaces that will not require backing on to the State road. Paved surfaces are proposed to provide better definition of spaces than that of the existing.

Doc. 9/14/15 JMT

5. The proposed increased lot on which the use is to be established will be of sufficient size and adequate shape, dimension, and topography to permit conduct of the proposed use and building or other structure in connection therewith in such a manner that will not be detrimental to the neighborhood or adjacent property. The proposed shapes of the lots allow for more efficient, environmentally healthy septic systems, allow for improved additional parking and pedestrian access on and through the property, enhances the function and the experience of being on the East Aspetuck River. The new proposed property alignment reduces considerably the need for staff and customers from crossing the State Road; definitely a safety improvement. The topography in the area of proposed development is generally level and require little change of grade to develop in accordance with the proposed plan.
6. Provisions are proposed for suitable landscaping to protect the neighborhood and adjacent property with, to extent possible, provide a permanent landscaped buffer of evergreens shrubs, natural topography, or other appropriate screening material.
7. The proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development. (two Rain Gardens / Runoff Water Quality Basins are proposed on the property, designed in excess of the minimum design standards to meet the 'first flush' requirement to accommodate the increased impervious surfaces of the paved parking lot and roof of the restaurant expansion and from the gravel parking area on the west side of the East Aspetuck River).
8. The proposed uses and any building or other structure in connection therewith will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line. The usage of the Housing structures have no visible changes to the outside of the buildings. There will be no increase in traffic or intended usage. The Restaurant building will have no change in use and/or odors that may be emitted from the building. Parking improvements are proposed with better definition of parking spaces. The need for pedestrian access across the State road will be reduced thus eliminating or reducing nuisance conditions and eliminating the nuisance for the business owners. Any proposed lighting will be dark sky - full cut off that will not create glare / bright lights beyond the property line.

## LOT LINE REVISION

- 1) Is it possible to propose the lot line revision so that all of the white these lot is within 400 ft from the centerline of Rt. 202?
- 2) Has the residential density form been filled out on the remaining Sess lot?

## MAP

- 1) Don't want a map w/ anything "approximate," "preliminary."
- 2) Can we get a different scale??

## INLAND WETLANDS

- 1) Need specifics re: protecting river and wetlands not only from erosion and sediment due to construction, but also from parking lot runoff - gas, oil, antifreeze, etc.
- 2) Can parking lots be moved farther from river either by moving them or making them smaller?
- 3) Wetlands need to be tagged.
- 4) Access and construction barriers specifics
- 5) Limit of disturbance line.
- 6) Addition on slab for less impact?
- 7) Not sure crushed stone lot is better for wetl/river as is only 13 ft. for renovation.

## ZBA

- ① Will want 100 approved first
- ② setbacks from river and wetlands not waivable

## ZONING

- ① Language of proposed access easement
- ② DOT approved for entrance to new lot
- ③ Parking lot straddling lot lines??

Issues that ZIC could possibly waive if spec. permit under 9.5 is applied for and standards of 9.6 met:

- A. lot governed by more restrictive district (if applicable)
- B. setback - for addition

if:

- A. preservation of historically signif. structures (?)
- B. architecture - need to see plan
- C. building materials " " "
- D. building size, site design, visual impact - how will visual impact of all that parking along Rt 202 be alleviated?



## ?5/ Problems / Issues

?? on the one hand 9.5.3 says setbacks and yard dimensions may be waived / on the other hand 9.6.9 says standards comply w/ = 25 ft. from boundary line.

Note: 11.6.1 is for buildings - NOT parking lots

2 separate properties so 2 separate sets of applications? - Precedent: 321/323 West Shore Rd - Collins

\* Can you do 2 spec on the same wright?

Order

① Decide on configuration based on

a) theceth b) soils - density determination form

② Inland wetl.

③ ZBA - @ very least 12.1.1, 12.1.2

④ spec Permit housing in Bus District. - 2 separate properties

⑤ theceth

⑥ DOT

??

need "waiver" by spec permit 1st before can get approved for

done

Harris and Sass/254 and 258 New Milford Turnpike

A Preliminary Report re: Zoning Issues Based on the Site Plan  
Dated 1/8/15 Submitted to the Inland Wetlands Commission

1. Location: Currently the Harris property is located entirely within the Marbledale Business District, but the district line cuts through the Sass property. Properties where the district line cuts through are governed by the regulations for the more restrictive district. So by adding the rear land to the Harris lot, the district boundary line would run through the Harris property, resulting in the entire lot being governed by the R-1 District regulations. However, Mr. Harris could apply for a separate Special Permit under Section 9.5.2 to get a waiver of this regulation.
  
2. Lot Line Revision:
  - A. Lot Size: It would appear that since it currently contains 13.9+ acres that the proposed lot line revision would be possible. However, a Residential Density Form has not been completed, nor have wetlands, existing easements, or slopes over 25% been delineated on the site plan, nor have their acreages and the flood plain acreage been computed.
  - B. Frontage: As proposed, it would leave the Sass lot with 105' of frontage, which does not comply with Section 11.4.1 requiring 200 feet of frontage for residential lots in the B-3 District.
  - C. Setbacks: With the proposed change in the boundary line, the existing apartment building and rear house would not meet the side yard setback requirements. Per Section 11.6.1.C a 25 ft. side yard setback is required.
  - D. Coverage: Per calculations provided by the applicant, the lot coverage on both lots would be less than the maximum 25% permitted.
  - E. Residential Density: Per Section 11.2, after the proposed acreage is given to the Harris property, will the Sass lot meet the residential density requirements for the number of dwelling units currently existing on this lot? Again, a Residential Density Form has not been submitted.
  
3. Addition to Restaurant:
  - A. Setback: As proposed it does not comply with the required 50 ft. setback from the front boundary line.

Again, Mr. Harris could apply for a separate Special Permit under Section 9.5.3 to relax the front yard setback requirement.

- B. Wetlands Setback: Per Section 12.1.1 no building may be closer than 50 feet from a wetland and/or floodplain. The wetlands have not yet been delineated on the site plan, but it would appear the proposed addition is within 50 feet of the floodplain.
- C. East Aspetuck River Setback: Per Section 12.1.2 the required setback is 100 feet. The proposed addition is less than 30 feet from the streambank.

4. Parking Lots:

- A. Rear Parking Lots: ??? Section 9.7.2 appears only to address paved parking lots. While the proposed rear lots will be crushed stone, they are only a foot or two from the property boundary line and there is no screening between the commercially used lot and the residentially used adjoining property.
- B. Front Parking Lot Along Rt. 202:
  - 1. The proposed parking lot straddles the boundary line. Section 9.6.9, which must be complied with if Mr. Harris will apply for waivers under Sections 9.5.2 and 9.5.3, requires paved areas to be set back at least 25 feet from any property line of an adjoining use that is not business or commercial in nature.
  - 2. Wetlands and Floodplain Setback: The wetlands have not been delineated so it is not known whether the paved parking lot complies with Section 12.1.1 - 50 foot setback from wetlands and floodplain.
  - 3. East Aspetuck River Setback: Per Section 12.1.1 the setback for a paved surface is 100 feet. The proposed lot is only 25.75 feet from the streambank.
  - 4. Per 9.7.1.A the paved parking lot for the Harris property is required to be 50 feet from the adjoining residentially used property unless modified by the Zoning Commission. Also, within this setback a permanent landscape buffer must be maintained to screen the business use from the neighboring residential property. The site plan shows there is no setback and no landscape screening proposed although the lot is only approximately 5 to 6 feet from the dwelling.
  - 5. Per 9.6.5 the parking lot should be screened from public view. The proposed lot comes to within

approximately 8 to 10 feet of the front boundary line but no landscaping or buffering is proposed.

5. Drainage: Other than a note that a "rain garden vegetated buffer" is proposed below the employee parking lot and between the river and the river walk, no specific drainage plans have been proposed. Per Section 14.7.5 "Provision shall be made for collection and discharge of storm water on the lot to prevent flooding of parking lots and loading spaces, to avoid hazards and traffic, and to protect streams and wetlands from pollution..." The rear lot is proposed to be crushed stone. Is that sufficient to properly handle drainage? The front lot is proposed to be paved. Are any catch basins, infiltration systems, etc. proposed?
6. Erosion Controls: A single row of silt fence is proposed along each side of the river. Is this adequate for the amount of activity proposed? Will the requirements of Sections 14.7.6 through 14.7.6.0 be addressed?
7. Signs: Will any additional signs be needed, especially relating to location of parking areas and directing traffic?
8. Existing Bridge: Is the existing bridge one lane or two lanes wide? Will the Commission receive an engineer's report regarding the structural adequacy of the bridge and what load capacity it can safely accommodate? Are the railings in safe condition? There will be pedestrian as well as vehicular traffic crossing this bridge.
9. Trash Receptacles: Will the proposed improvements enable the trash dumpster to be moved from the front of the property to somewhere else out of public view?
10. Lighting: Will there be outdoor lighting proposed for any of the parking lots and along the driveway? There is none shown on the site plan. Whether or not Mr. Harris applies for a waiver under Section 9.5.2, there are several dwellings close by and so any lighting should comply with Section 12.15 and should be as low in height as practical and the light sources should be shielded and aimed downward and installed so they may not be seen from other properties.

Dated 1/26/15

By



Janet M. Hill, Land Use Administrator