


RE: Wykeham Rise: Final Zoning Meeting - Monday, April 24, 7:30 PM - Town Hall - please come to show your support for the inn

Philip <kabina@charter.net>

Tue 4/18/2023 5:26 PM

To: 'Stephen Brighenti' <stephenbrighenti@gmail.com>;erika_klauer@yahoo.com <erika_klauer@yahoo.com>;Joe <cornetmustich@gmail.com>

Cc: Shelley White <swhite@washingtonct.org>

 2 attachments (3 MB)

Owen's Letter to Editor.pdf; V Anderson 1-23-23 ZC minutes.png;

CAUTION: This email originated from outside of Town of Washington. USE CARE when opening attachments or links.

Hi all-As a former zoning commissioner I'd urge everyone to read the attached piece by David Owen from Dec.11 2009 LCT. There are many important points raised by David. Column three-part of his fifth point- contains this sentence: "Zoning commissioners can seek to change regulations that seem to them to "defy common sense," but they can't simply ignore or overlook regulations they happen to disagree with. **If an application complies with the town's regulations, it must be approved; if it does not, it must be denied.**" David's ninth and tenth points are particularly apt in regards to the Wykeham application. Valerie Anderson, a current member of the ZC, is in egregious violation of David's tenth point. Anderson made this comment -"We've allowed a business to be established in a residential area..And we're destroying a neighborhood..and all of a sudden we caved" during a ZC meeting in July '22. Anderson also requested an "Executive Session meeting with attorney Zizka so she could better understand 101 Wykeham." (see attached). Anderson has demonstrated by some of her statements that she is not only biased against the project but wildly out of her depth in terms of the process by which applications are handled by the Washington zoning commission. As Erika points out-the application was approved 3 years ago with conditions. If the conditions have been met then approval should be forthcoming.

Thanks,

Phil

Philip Dutton

917 972 4912

<mailto:kabina@charter.net>

From: Stephen Brighenti [mailto:stephenbrighenti@gmail.com]

Sent: Tuesday, April 18, 2023 1:46 PM

To: WashingtonCT info email

Subject: Fwd: Wykeham Rise: Final Zoning Meeting - Monday, April 24, 7:30 PM - Town Hall - please come to show your support for the inn

Please read Erika's e-mail below. And the reasons for approving this extraordinary addition to Washington - for our economy, residents, quality of life, students, contractors, restaurants, artists, retailers and more - enumerated in Joe's letter that follows. Please attend and/or shoot off a quick note to the Washington Zoning Commission c/o Shelley White swhite@washingtonct.org. This will make a lot of difference to push it over the finish line. Best, Steve

----- Forwarded message -----

From: **erika klauer** <erika_klauer@yahoo.com>

Date: Tue, Apr 18, 2023 at 1:01 PM

Subject: Wykeham Rise: Final Zoning Meeting - Monday, April 24, 7:30 PM - Town Hall - please come to show your support for the inn

To: erika klauer <erika_klauer@yahoo.com>

Hello friends,

I hope the Spring is off to a good start. After almost 3 years of working closely with the Zoning Commission to ensure that we have complied with all terms of our approval, the Commission is set to vote on this compliance on Monday at 7:30. Unfortunately, there is still a very vocal minority who continue to heavily pressure the Commission to deny our permit regardless of our compliance. Please come to the meeting on Monday night at Town Hall to support the Inn and encourage the Commission to vote for the Inn so we can finally build something beautiful in a now 20 year abandoned site.

Please bring friends!

Please call me with any and all questions -

Best, Erika

917-822-7155

Letter in Support of Wykeham Rise's Final Approval

Hopefully Washington is at the end of its 15-year ordeal to approve the luxury Wykeham Rise Inn. Since 2008, a few NIMBY obsessed opponents delayed and compromised the vision of an idealistic family with local roots and almost a hundred years of hospitality DNA in Litchfield County to replace an abandoned dilapidated 115-student school on 27 acres with the best small Inn to be built in New England since the Ocean House in Watch Hill (the proposed operator). These few vociferous neighbors have taken away job opportunities and futures of over a hundred local students, contractors, designers, artists, shop owners, restaurants, and farms that the owners had committed to support.

Just as the Mayflower and nearby Winvian Inns improved Washington and the Ocean House revitalized Watch Hill, this beautiful inn will dramatically increase all Washington property values, particularly the neighboring values. It will bring visitors, vitality, economic growth, enhanced quality of life and tax revenues. Wykeham Rise will help to reverse Washington's aging and declining demographics and the 50% loss of local contractor inhabitants since Zoning endorsed the purchase of the property in 2008. The overwhelming majority of Washingtonians and its business community spoke and wrote in support of approval. Subsequently, these few obsessed neighbors relentlessly litigated and pestered zoning to compromise the inn's design and use with numerous restrictions in order to compromise the Inn's financial viability. These included denying typical luxury hotel unit sales to local downsizing seniors who showed up at presentations, denying the right to long term guest room rentals of returning residents, denying small kitchenettes preferred by families and school visitors, denying local resident use of the health club, and restricting dining locations within the building.

Litchfield last year rapidly approved two luxury inns with similar widespread community support and gratefulness for the benefits of hospitality and the Zoning Commission was not held hostage by a few. Our Commission should not back track to the last gasp claims by the same few naysayers that "native cold-water trout will be threatened" and "the inn will endanger the Judea Water System supply". Please re-

read the more than 220 letters of support in the record and issue the final permits so that we will finally have this magnificent inn to welcome guests to Washington.

Joe Mustich and Many Like Minded Supporters



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V. Andersen requested an Executive Session meeting with Attorney Zizka so that she could better understand 101 Wykeham. Chair Solley, along with S. White explained that the Commission could not have an Executive Session. Chair Solley encouraged V. Andersen to write her questions for Attorney Zizka as S. White has suggested, and they would be forwarded to him.

S. White strongly encouraged each Commissioner to attend the Land Use Law seminar on March 11, 2023. J. Hill added that 4 hours of continuing education a year is now required by state law for all Board and Commission members under PA 21-29,

ADMINISTRATIVE BUSINESS

Washington Zoning Is Bound by Its Regulations

By DAVID OWEN

I usually read news coverage of the Washington Zoning Commission by holding the paper at arm's length and squinting at it, to avoid becoming embarrassed by something that I may have said. Nevertheless, in recent months I've become aware of what I believe to be several misconceptions concerning zoning-related matters, and I want to comment on a few of them.

First, cell towers. The two most common complaints I hear about the commission have to do with cell towers: First, that we have recklessly allowed them to be built in Washington; second, that we have stubbornly kept them out. Both complaints are groundless. Decisions regarding the placement of cell towers in Connecticut are made exclusively by the Connecticut Siting Council. Municipalities have some limited opportunities to express opinions about particular sites but they are prevented by federal law from impeding the expansion of the national telecommunications network.

Wireless providers don't file zoning applications. The reason that Washington has few cell towers is that wireless providers, thus far, have found it unprofitable to place more of them here. The largest section of Washington's zoning regulations is the section concerning telecommunications facilities, including cell towers, but we wrote and adopted those regulations many years ago, when there were still questions about the role of towns in making decisions about the placement of some kinds of communications towers.

Today, given current limitations on the authority of zoning commissions, it might make sense to overhaul and considerably condense that section. I think that such a change would make sense, but when

we raised that possibility a few years ago, there was a tremendous outcry, and we dropped it.

Second, it has been said that the reason the former Texaco station in the Depot is vacant is that the Zoning Commission won't allow anything to be built there. That is not the case. In fact, the commission made an extraordinary effort a few years ago to broaden the possibilities for all lots in the Depot, including that one, by significantly relaxing its requirements regarding setbacks, lot coverage, and parking. Those changes remain in effect, and they continue to enlarge the range of options for any potential developer in that district. The difficulties faced by the owner of that property do not involve Washington's zoning regulations.

Third, it has been said that the Zoning Commission denied an application for a moderate-income housing development. I assume that the development referred to is Myfield, and I will remind everyone that the commission has never denied a Myfield application or any other application for moderate-income housing. In fact, the commission considered two Myfield applications and approved both of them.

Fourth, it has been said that the Zoning Commission denied an application for school playing fields. I assume that the reference is to a private-school property on South Street. The commission has never denied, or approved, an application for playing fields on that site. Such an application was submitted, but it was withdrawn by the applicant in 2001, apparently in response to objections raised by neighbors. The one application we did act on for that site—for an environmental education center—we approved.

Fifth, it has been suggested that the town's 112 pages of zoning regulations are

not always a reasonable basis for making zoning decisions. All zoning commissions are bound by law and by their oath of office to apply those 112 pages of regulations in exactly that way. Zoning commissions can seek to change regulations that seem to them to "defy common sense," but they can't simply ignore or overlook regulations they happen to disagree with. If an application complies with the town's regulations, it must be approved; if it does not, it must be denied.

Sixth, I have heard the recent election referred to as a referendum on a particu-

If an application complies with the town's regulations, it must be approved; if it does not, it must be denied.

lar decision by the Zoning Commission. I would remind all zoning commissioners that, by law, no zoning decision is made by referendum. A zoning commission is bound to adhere to its regulations, even when doing so may be unpopular. When residents of the town, or members of the Zoning Commission, feel that existing regulations are inadequate or misguided or outdated, they can seek to amend them through the process described in the regulations and in the Connecticut statutes. That happens all the time.

Seventh, members of planning commissions, zoning commissions, and zoning boards of appeals are prohibited by state law from participating in the hearings or decisions of those same commissions in any matter in which they are directly or indirectly interested in a personal or financial sense.

According to our attorney, Michael Zizka, a "personal interest" in such a decision "may include a close friendship or

other association with the applicant. It may also include situations in which a member may gain a personal business advantage as a result of his or her actions on an application. Where a commission member is disqualified for one of the foregoing reasons, that fact must be entered on the records of the commission." In addition, members of those three commissions are not allowed to appear for or represent others before any of those same commissions, whether they are paid to do so or not.

Eighth, it has been suggested that the town's zoning regulations are subsidiary to its Plan of Conservation and Development. This is a subject I have discussed at some length over the years with two of our attorneys, and I want to summarize those conversations.

The role of the Plan of Conservation and Development in land-use matters is established by state law, but is also circumscribed by it. The Zoning Commission must consider the plan when adopting or revising regulations—and it must submit proposed regulation changes to the Planning Commission for review, and, if the Planning Commission recommends against adoption, the Zoning Commission can approve such changes only by a two-thirds-majority vote, which on a five-member commission means a vote of 4-to-1. But the Zoning Commission is not bound by the Plan of Conservation and Development—and if it were so bound it would often face an irresolvable dilemma because the plan includes many elements that are, or can be, mutually exclusive.

Ninth, when citizens become members of a zoning commission, they sacrifice several rights, among them the right to freely discuss certain kinds of zoning matters with other people and, especially, with other members of the commission. Connecticut's Freedom of Information Act requires that almost all meetings of zoning commissions be conducted in pub-

lic and recorded.

If one member of a five-member zoning commission has a telephone conversation about a pending application with one other member of the commission and then discusses the same application with a third member of the commission, those three commissioners can be considered to have conducted an illegal meeting, since a majority of the commissioners were ultimately involved. If such meetings are to take place legally, the public must be notified in advance, and a public record must be kept. Even two members discussing zoning matters can present a Freedom of Information problem.

I asked our attorney if a two-member subcommittee of the Zoning Commission would be required to post notices and agendas, and keep minutes of their discussions, and he said, yes. The soundest course for all commissioners, I believe, is to save all such conversations for formal meetings and public hearings, to keep the decision-making.

Tenth, decisions by zoning commissioners must always be made without bias or predetermination. I will quote from Attorney Zizka's own excellent book, "What's Legally Required?"—which I highly recommend to all members of the commission. He writes, "No member of any commission should publicly take a position on the granting or denial of an application before the application has been formally heard and considered by the commission. ... [E]ach commission member should avoid making statements that could suggest the member has made up his or her mind about an application before its merits have been fully considered. The purpose of this rule is to protect and preserve public confidence in the commission's ability to make a fair decision."

David Owen is chairman of the Washington Zoning Commission.