

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Commission Regular Meeting

MINUTES

May 22, 2023

7:30 P.M. – Hybrid Meeting

MEMBERS PRESENT: Chair Solley, J. Hill, D. Werkhoven, W. Farrell, V. Andersen

MEMBERS ABSENT: None

ALTERNATES PRESENT: S. Smith, E. White (via Zoom)

ALTERNATES ABSENT: S. Mongar

STAFF PRESENT: S. White, T. Rill, M. Haverstock (via Zoom)

PUBLIC PRESENT: K. Gallagher, R. Fisher, R. Solomon, M. Solomon, D. Pushlar, J. Harris, M. Miner, R. Parker, S. Ullram, P. Rogness, J. Averill, D. Buell, D. Arturi, K. Hunt, M. Giampietro, L. Glover, H. Barnett, M. Purnell, R. Reich, R. Boehning, M. Revere, M. Ewing, C. Francis

PUBLIC HEARING(S):

Chair Solley called the Public Hearing to Order at 7:32pm

Seated for the Public Hearing is Chair Solley, J. Hill, D. Werkhoven, W. Farrell and V. Andersen.

Request of Harris, 254 New Milford Turnpike, for a Modification to an Existing Special Permit, Section(s): 9.5 – Maximum Lot Coverage, 9.6-Minimum Setback and Yard Dimensions, 11.6.3.A – Open Fences, 12.3-Buffers, 12.15 Outdoor Lighting in Residential Districts and 15.2 – Number of Parking Spaces:

Chair Solley began by discussing the revised Site Plan submitted by Mr. Pushlar, representative for 254 New Milford Turnpike. He questioned if whether or not the gravel would be removed in the parking area. Mr. Pushlar confirmed that it would be removed and planting soil would be placed there instead.

Mrs. Hill questioned what would happen if the plantings did not survive. Mr. Pushlar stated that the Inland Wetlands Commission approved a maintenance plan for the plantings and that would be adhered to. Any plantings that do not survive will be replaced. Also, arborvitae will be added to the IWC Maintenance Plan – which will become a Condition of Approval.

As for lighting, Mrs. Hill questioned if all of the light fixtures will be the same as pictured on the lighting plan. Mr. Pushlar confirmed. Mrs. Hill requested that and house side shade be added to the lighting plan.

Mr. Farrell questioned if the lighting that was not permitted was removed. Mr. Pushlar explained that a shade will be added and that all of the fixtures will be changed on all of the lights, eight in total. The light that is mounted in the tree will be removed.

The stone well house has been removed, long with a shed. There will be a rain garden in the area of an intermittent stream.

Mr. Werkhoven suggested that Mr. Harris, owner of 254 and 258 New Milford Turnpike, find a solution with the property owners from across the street, as there are several parking spaces in that area. Mr. Harris explained that this had been tried, but was not successful. He is, however, allowed to use the property owned by the Dobson family, as long as the businesses located in their building are closed, mostly evenings.

Ms. Gallagher, abutting property owner of 254 New Milford Turnpike, asked Mr. Pushlar how the gravel in the parking area will be removed, as part of the gravel is located on her property. Mr. Pushlar explained a mini excavator would mostly likely be used. She requested that the light post be removed, but asked that her dog fence not be damaged. Ms. Gallagher presented photos to the Commission of garbage trucks emptying the dumpster on the property at 4:00am, as well as the trespass of lighting onto her property. Mr. Harris stated that he would ask American Waste to not pickup prior 8:00am, that the outdoor lighting will be on a timer that will dim and/or turn off the lights by midnight.

Ms. Gallagher added that the lights that reflect off of the river are also a nuisance, and are on all night long. Mr. Pushlar stated that if something is not right, it will be fixed. The Commission asked for Mr. Harris to confirm that changes will be made if not correct.

Ms. White, Land Use Administrator, asked the Commission to consider asking the applicant to remove all of lighting that is not necessary at 254 New Milford Turnpike. Mrs. Hill added that she would like to make a condition to the approval that once the work is complete, Commissioners, neighbors and the ZEO could check the property to make sure all is done according to the plans.

Attorney Fisher, representative for Ms. Gallagher, emphasized that the issue of the garbage removal very early in the morning is still something that he believed needed action and hoped the Commission would make a Condition of Approval.

The Commission discussed the timing of when the Cease and Desist order would end and when work could commence. Ms. White explained that once the Special Permit was filed properly with the Town Clerk, the Cease a Desist Order ends and work could begin.

Concerns over car headlights trespassing on Ms. Gallagher's property were discussed. The Commission, unsure if the plantings would suffice as a buffering, questioned if the fence could be extended. The Applicant agreed to add additional 6-foot high fencing, (approximately 70-feet), will continue along the common boundary, near the guard rail, above the river.

Mr. Pushlar marked this on the plans, as well as changing the word, “or” to “and” as previously discussed and initial both. The plans are revised on May 22, 2023, sheets L-1 and L-2.0, titled, “258 & 254 New Milford Turnpike” by Dean Pushlar, ASLA, PLA.

MOTION: To close the Public Hearing for the 254 New Milford Turnpike, for a Modification to an Existing Special Permit, Section(s): 9.6-Minimum Setback and Yard Dimensions, 11.6.3.B.2 - Fences, 12.3-Buffers, 12.15 Outdoor Lighting in Residential Districts and 15.3.2 – Number of Parking Spaces, by Ms. Andersen, seconded by Mr. Werkhoven, passed unanimously.

REGULAR MEETING:

The Regular Meeting was called to Order at 8:38pm

Chair Solley, Mrs. Hill, Mr. Werkhoven, Mr. Farrell and Ms. Andersen are seated.

CONSIDERATION OF THE MINUTES:

MOTION: To approve the April 24, 2023 Washington Zoning Commission Meeting Minutes as submitted, by Mrs. Hill, seconded by Mr. Farrell, approved unanimously.

PENDING APPLICATIONS:

Request of Harris, 254 New Milford Turnpike, for a Modification to an Existing Special Permit, Section(s): 9.5 – Maximum Lot Coverage, 9.6-Minimum Setback and Yard Dimensions, 11.6.3.A – Open Fences, 12.3-Buffers, 12.15 Outdoor Lighting in Residential Districts and 15.2 – Number of Parking Spaces:

The Commission discussed each Section and potential Conditions of Approval. The Commission agreed to allow a seven and a half-foot increase to the setback. The gravel shall be removed from this area. Parking will be screened from the view of the neighbor. There will be a 6-foot stockade fence as shown on the Site Plan. The lighting will be turned off (or dimmed), by business closing – or midnight, whichever comes first. The tree-mounted lighting shall be removed. The arborvitae shall follow the Inland Wetlands 3-year maintenance plan. Garbage pickup shall be arranged to take place no earlier than 8:00am.

Chair Solley put forth the following Motion:

MOTION: To approve the Request of Harris, 254 New Milford Turnpike, for a Modification to an Existing Special Permit, Section(s): 9.6-Minimum Setback and Yard Dimensions, 11.6.3.B.2 – Fences, 12.3-Buffers, 12.15 Outdoor Lighting in Residential Districts and 15.3.2 – Number of Parking Spaces, with the following conditions:

- 1.) Prior to the issuance of Zoning Compliance and after the installation of all parking, lighting, landscaping and fencing per the plan revised May 22, 2023, sheets L-1 and L-2.0, titled, “258 & 254 New Milford Turnpike”, by Dean Pushlar, ASLA, PLA, the Zoning Enforcement Officer, Commission members and neighbors shall inspect the property at night, and if the light pollution and glare problems have not been satisfactorily solved, the Commission shall require additional corrective measures**

2.) That the arborvitae shall be subject to the same conditions as per the Washington Inland Wetlands Commission's 3-year planting maintenance plan – IWC-#22-23, dated 9-14-2022.

3.) to remove the gravel from the approved seven-and-one-half foot setback.

4.) as per Section 11.6.3.B.2– a six-foot fence will be installed as shown on the site plan revised 5-22-2023, sheets L-1 and L-2.0, titled, “258 & 254 New Milford Turnpike” by Dean Pushlar, ASLA, PLA.

5.) that the lighting not needed for safety purposes at 258 New Milford Turnpike be dimmed or turned off at the close of business or by midnight, whichever is first.

6.) all tree-mounted lighting shall be removed.

7.) Garbage shall be picked up no earlier than 8:00am.

Motion made by Chair Solley, seconded by Ms. Andersen, approved unanimously.

NEW APPLICATIONS:

There were no New Applications.

OTHER BUSINESS:

101 Wykeham Road – Update – NO VOTE:

Chair Solley informed the Commission that Attorney Zizka will not be available in the month of June to attend any meetings. Chair Solley will not be in attendance of the July Zoning Meeting. A request has been made for a Special Meeting to be scheduled. The Commission agreed on July 19, 2023 at 7:00pm to hold this Special Meeting. Ms. Andersen had several questions regarding the purpose and intent of the meeting, whether the public would be able to speak, and whether or not there will be a vote. Mr. Werkhoven questioned if Attorney Zizka has addressed the letters from Attorney Williams regarding the rights of his clients. Chair Solley explained that he has not received an opinion from Attorney Zizka on this issue to date. He added that the Special Meeting will be a time to go over the remaining Compliance issues that will hopefully lead to an eventual vote.

Chair Solley reiterated that the Commission's task is to decide whether or not the applicant has met the Conditions of the Special Permit and the Settlement Agreement.

MOTION: To schedule a Special Meeting regarding 101 Wykeham, LLC on Wednesday, July 19, 2023 at 7:00pm in the Main Meeting Room of Bryan Memorial Town Hall and via Zoom Video Conference, by Chair Solley, seconded by Ms. Andersen, approved unanimously.

ENFORCEMENT:

Ms. Haverstock discussed her Enforcement Report with the Commission.

Several permits for generators were granted this month. Other permits approved include additions, a tennis court, retaining walls and patios to name a few.

Three Certificates of Zoning Compliance were also granted.

INVOICES AND COMMUNICATIONS:

Chair Solley thanked the public for their communications this month.

PRIVILEGE OF THE FLOOR:

R. Solomon questioned whether or not M. Purnell's letters were submitted to Cardinal Engineering for review. Chair Solley stated he was unsure if they were forwarded or not. Ms. White, Land Use Administrator, explained that she had forwarded them to Attorney Zizka, Attorney Sherwood, Arthur H. Howland and Associates and Ms. Solomon, and believed the attorneys would decide what would be considered compliance items and then forward to Cardinal Engineering.

M. Solomon questioned the reasoning for M. Purnell's letters not being submitted to Cardinal Engineering and asked for reassurance that they will be forwarded to them. Both R. and M. Solomon explained that they believed that the forwarding for Ms. Purnell's letter was not a legal issue, but a compliance issue, therefore were not sure why this needed Attorney Zizka's approval. Chair Solley stated that he will meet with Ms. White within the week to discuss.

C. Francis of Arthur H. Howland and Associates questioned the July 19, 2023 Special Meeting intent.

R. Solomon repeated that the compliance concerns brought forward by Ms. Purnell were not in Attorney Zizka's purview, but rather issues Cardinal Engineering could address. Ms. Andersen questioned if Cardinal would be present for the July 19th Special Meeting. Chair Solley stated he hoped so.

M. Purnell stated that due to the fact that public comment had not been allowed at previous Special Meetings and workshops, the public wrote letters of concern after those meeting, with several raising concern over compliance issues that did not seem to have been met to date. She asked the Commission to take this into consideration moving forward.

ADMINISTRATIVE BUSINESS:

There was no Administrative Business for this evenings meeting.

ADJOURNMENT:

MOTION: To adjourn the May 22, 2023 Washington Zoning Commission meeting at 9:45pm, by Ms. Andersen, seconded by Mr. Werkhoven, approved unanimously.

Meeting Recording can be found here:

https://townofwashingtongcc-my.sharepoint.com/:u:/g/personal/trill_washingtonct_org/EUUD67dh4CBAgQQabgFCwP4BuZwHQi1u1FONjA1b38K0DQ?e=SppZzF

Respectfully Submitted,

Tammy Rill

Land Use Clerk

May 26, 2023

*Minutes filed, subject to approval