

## Zoning Commission

### MINUTES Public Hearings – Special Meeting September 12, 2017

7:30 p.m.

Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Solomon  
**ALTERNATES PRESENT:** Mr. Burnham  
**ALTERNATES ABSENT:** Mr. Sivick  
**STAFF PRESENT:** Ms. White  
**ALSO PRESENT:** Mr. Kleinberg, Ms. Payne, Ms. Block, Atty. Pires

#### **REVISION OF THE ZONING REGULATIONS:**

Mr. Solley called the Public Hearing to order at 7:32 p.m.

**Seated:** Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill and Mr. Solomon.

#### **Re: Expanding the Washington Depot Business District:**

Mr. Solley stated that the Commission held a public hearing last month to discuss the possibility of adding 4 lots to the Washington Depot Business District (B-2); 6 Bryan Plaza, 13 River Road, 17 River Road and 10 Blackville Road. He noted that Ms. Dorothy Anderson, 15 River Rd, sent a letter to the Zoning Commission opposing the addition of 6 Bryan Plaza, 13 and 17 River Road to the B-2 District. Ms. Anderson's access point to her property is between 13 River Road and 6 Bryan Plaza and it is often blocked by people going into Washington Pizza and the Legion Hall despite signs that have been installed. Mr. Solley stated that he spoke with First Selectman Lyon about improving the signage and the striping in the parking areas.

The Commissioners discussed the history of the properties on River Rd and Bryan Plaza. Mr. Solley stated that many people think the business district extended to Cook Street but it only extends to Canoe Brook.

Mr. Averill stated that he feels the Zoning Commission is catching up to reality by revising this section of the Regulations. He noted that some people tend to think that since a property is within the Business District that it can only be used for business and that is not the case. He said that he is sympathetic with Ms. Anderson but feels that the signage issue would be a subject that the Selectmen would address.

Mr. Solley addressed the Town Garage property at 10 Blackville Road and noted that the approximately 14 acres of the property exists mostly in the Washington Depot Business District and between 3-4 acres is in a residential district. He feels that this is another case that the Regulations are catching up to reality. If this property is designated in the B-2 District the lot coverage requirements would change from 10% to 25%.

Mr. Reich stated that he is concerned by Ms. Anderson's opposition.

The Commissioners discussed how the properties have been used as businesses and this revision would not change that or Ms. Anderson's property.

**MOTION:** To approve the expansion of the Washington Depot Business District to include the following properties in their entirety: 6 Bryan Plaza – Assessor's Map #09-06-44, 13 River Road – Assessor's Map #09-06-42, 17 River Road – Assessor's Map #06-06-41, and 10 Blackville Road – Assessor's Map #08-07-23, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

**Re: Retaining Current Boundaries in the Woodville District in Section 10 of the Zoning Regulations:**

Mr. Solley stated that at the public hearing the Commissioners got a sense of what the people thought regarding the triangular section of land that includes the "Grandpa Snazzy's" property. He noted that there was no interest at the public hearing indicating people would be for changing the boundaries of the Woodville District and few that were against it. He thinks the current boundaries should be retained.

Mr. Werkhoven disagreed and feels that the boundaries should be changed back to where they were in 2000 because it would be an opportunity for more possible small businesses. He drove around the area and concluded that there would not be much of a change in traffic.

There was a brief discussion regarding uses permitted in the Woodville District.

Mr. Averill stated that he agrees with Mr. Werkhoven and feels that this is another instance when people think that just because it's in a business district that residential properties are not allowed, and that is not the case. He stated that expanding the district back to what it was in 2000 would open up opportunities for small business.

The Commissioners discussed the small amount of feedback they received at the last public hearing and the possibility of new businesses locating to the Woodville District. It was noted that there were two property owners at the last public hearing opposed to changing the Woodville District boundaries.

Mr. Werkhoven suggested that a motion be made to include the additional properties (in blue) to the Woodville Business District, rather than retain the existing boundaries.

Mr. Solley suggested that a motion be made to retain the boundaries as they are indicated in the Zoning Regulations at this point and time.

**MOTION:** To retain the current boundaries of the Woodville Business District and not adopt any of the proposed boundary revisions, by Mr. Solley, seconded by Mr. Solomon, passed by 3-2 vote. Mr. Werkhoven and Mr. Averill voted against.

Mr. Solley noted that anyone can petition the Zoning Commission to change the boundaries.

**Re: Off Premises Directional Signs:**

Mr. Solley explained that there is only one Town Landmark Site, The Hollister House, in the T.O.W. that was granted by Special Permit. There was a brief discussion of where the signs might be installed.

**MOTION:** To approve Sections 13.17.4 and 16.3.11 to permit off the premises directional signs for approved Town Landmark Sites by Special Permit, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

**Re: Complete Revision of Section 17 – Nonconforming Lots, Land, Structures and Uses:**

Mr. Solley pointed out that the main discussion would be regarding Sections 17.8 and 17.9.

He read Section 6.5 and then explained, as per Town Counsel they would have to revisit this section because the revisions would need a public hearing. The Zoning Commission is working on a proposed revision to Section 6.5 which deals solely with the Lake Waramaug District and will not be dealt with at this meeting. Mr. Solley stated that they would do that as soon as possible. Town Counsel advised that the Commission can only propose a slight change in the Zoning Regulations.

The Commissioners reviewed the proposed revisions for Section 17.9.A – Application. Mr. Solley read Sec. 17.9.A.1. There was a brief discussion regarding Sec. 17.9.A.2 and whether it was feasible for a property owner to prove that the nonconforming aspects of the existing structure are lawful. It was noted that it is the owner's responsibility to prove that there is no other option but to replace the nonconforming structure. Sec. 17.9.A.3 was changed to read "The application must include a recent written opinion of *a licensed engineer chosen by the applicant and, if so requested, by the Commission per Town Ordinance #711.*" The requirement for a written opinion of the Building Official was removed.

Mr. Solley explained that Town Ordinance #711 gives the Town the right to hire an engineer, if needed for a second opinion, at the property owner's expense. The Commissioners discussed the language in this section. It was noted that the Commission would determine whether a second opinion was necessary on a case-by-case basis.

Mr. Averill stated that the Town Ordinance #711 reminds the applicant that the Commission has the choice to obtain professional verification as to what was submitted by their engineer on their behalf.

Mr. Solley noted that Section 17.8 states that a nonconforming structure can be rebuilt if it is destroyed or damaged by an act of nature.

Mr. Werkhoven stated that Atty. Pires had suggested adding Section 'e' to 17 which requires that the proposed changes be in compliance with the Wetlands and Watercourses setbacks. Mr. Solley stated that he is relatively certain that the rebuilding of a nonconforming structure within the 0' to 75' of Lake Waramaug would need to be approved by the Inland Wetlands Commission.

Mr. Werkhoven stated that another concern that was expressed by the Lake Waramaug Authority/Association was that Section 17.9 would encourage property owners to let the structures on their property to fall into disrepair so that they could rebuild something in place of it.

Mr. Solley stated that he could understand the concern but does not think that it would be practiced. He explained that any reconstruction would have to go through the Special Permitting process and it would not be automatic. This section allows for a structure that is damaged to be rebuilt within the same footprint & same dimensions. Mr. Solley stated that it is his personal belief that if there is a nonconforming structure that is in disrepair the owner has the right to repair it.

The Commissioners revisited the subject of adding section 'e' to 17.9 which would require the property owner to be in compliance with I/W setbacks (Section 12.1). It was noted that all Zoning Permits are reviewed by the ZEO at which point the requirement for Inland Wetlands approval would be decided.

The Commissioners discussed the definition of "feasible" which was used in the revision of Section 17.9.

The Commissioners had a brief conversation regarding Section 17.9.b as to whether it should be required for a property owner to rebuild a structure in a conforming area if there is a conforming area on his property. It was noted that if someone owns a nonconforming structure, they should be able to fix/replace it, if necessary, and keep it.

Atty. Pires stated that he believes that the Commission misconstrued his comment about the Inland Wetlands approval requirement in Section 17.9. He wanted to confirm that the Commissioners knew that he was referring to Section 12.1 in the Zoning Regulations. Atty. Pires stated that adding Section "e" to Section 17.9 which requires that the property owner is in compliance with that Section 12.1. He noted that the revised Section 17.9 would override Section 12.1.

The Commissioners discussed Section 12.1 and how it would affect the revisions of Section 17.9. They noted that if they added Section 'e' a nonconforming house existing within the setback area could not be replaced. The Commissioners agreed that adding the suggested Section 17.9.'e' would require a nonconforming structure to be in compliance to Section 12.1 and would override the Section 17.9.

Mr. Solley stated that he would prefer to only make changes to Section 17 with the direction from Town Counsel and the possibility of including a Section 'e' would be discussed.

**MOTION:** To approve the complete update and revision of Section 17- Nonconforming Lots, Land, Structures, and Uses as proposed w/inclusion of verbiage discussed under Section 17.9.A.3, "...a licensed engineer chosen by the applicant and, if so requested, by the Commission per Town Ordinance #711," by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

The Commissioners discussed adding the definition of "Abandonment" to Section 12 – Definitions of the Zoning Regulations

**MOTION:** To add the definition Section 21.1.1 - "Abandonment" to Section 21 – Definitions, by Mr. Solley, seconded by Mr. Reich, passed by 5-0 vote.

**Adjournment**

**MOTION:** To adjourn the meeting at 9:35 p.m. By Mr. Averill, seconded by Mr. Reich, passed 5-0 vote.

Submitted subject to approval:

By: \_\_\_\_\_  
Shelley White, Land Use Clerk  
September 18, 2017