**Zoning Commission**

MINUTES

Public Hearings – Regular Meeting

February 26, 2018

7:30 p.m. Main Level Meeting Room

**MEMBERS PRESENT**: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill

**MEMBERS ABSENT:** Mr. Armstrong

**ALTERNATES PRESENT**: Ms. Lodsin, Mr. Sivick

**ALTERNATES ABSENT**: Ms. Radosevich

**STAFF PRESENT**: Ms. Hill, Ms. White

**ALSO PRESENT**: Atty. Kelly, Mr. Szymanski, Ms. Ingrassia, MS. Freidman, Mr. Charles, Ms. Audette, Mr.Fletcher, Ms. Giampetro, Mr. & Ms. Solomon, Ms. Branson, Mr. & Mrs. Frank, Mr. Gruson, Mr. Kubovy, Members of the Public

**Call to Order:**

Mr. Solley called the meeting to order at 7:30 p.m.

**Public Hearing(s):**

**Seated: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Ms. Lodsin**

Hamilton/183 West Shore Road/Special Permit: Section 3.11.3/Detached Accessory Apartment:

Mr. Szymanski, P.E. was present to represent the property owner. He submitted the certificate of mailing receipts for the neighbor notification. He displayed the site development plan, sheet SD.1. He informed the Commission that the property owner will be residing in the main house of the property.

Mr. Szymanski referred to his letter addressed to Ms. Hill, Land Use Administrator, dated January 16, 2018. He noted that the accessory apartment is to be equipped with its own kitchen and full bath. It will have 870 sf of living space which is subordinate to the main dwelling as required. Mr. Szymanski stated that the accessory apartment would be served by the existing driveway of the main house and two off-street parking spaces have been provided.

Mr. Szymanski displayed the floor plans for the proposed accessory apartment and noted that the first floor would be the garage and the second floor would be living space.

Mr. Solley asked about the location of the source of electricity. It was noted that the electricity is fed from Loomarwick Road. Mr. Solley asked about the generator indicated on the site plan.

Mr. Szymanski stated that the generator is not part of this application. He noted that they have approval from the Health Department for this proposed plan.

Mr. Solley read Ms. Hill’s Administrative report regarding this property, dated February 26, 2018.

There were no further questions or comments from the public or the Commissioners.

**MOTION:** To close the public hearing for Hamilton, 183 West Shore Road for a Special Permit: Section 3.11.3 for a Detached Accessory Apartment, by Mr. Werkhoven and seconded by Mr. Reich, passed 5-0 vote.

Petition to Revise the Zoning Regulations/Addition of Section 4.4.20 to Allow Events and/or Facilities for the Visual and Performing Arts by Special Permit in the R-1, Farming-Residential, District:

Mr. Solley stated that the original application did not include “events” so, it would have to be resubmitted to the Planning Commission and the surrounding Council of Governments. He noted that the Planning Commission did not meet in February due to weather and have not had the chance to make any comment. He informed everyone that this public hearing would have to be continued.

Attorney Kelly was present to discuss this petition. He explained the process of getting approval from the Planning Commission and the COGs and noted that it is important to get feedback from the public tonight regarding this proposed addition to the zoning regulations.

Atty. Kelly noted that the Ingrassias, Spring Hill Farms, LLC and himself filed this petition in accordance with Zoning Regulation 2.3.5 and C.G.S. §8-3(c) to amend the Zoning Regulations. He said that this petition seeks to amend Section 4.4 by adding an additional use under a new section 4.4.20-Facilities for the Visual and Performing Arts, permitted by Special Permit in the residential zone.

Atty. Kelly stated that the Ingrassias own a piece of property at the end of Bee Brook Road that was part of a farm. He noted that the Ingrassias are supportive of the Arts and would like this property to be used to further the Arts in Washington. There have been talks with Pilobolus and possibly giving them a home and using the property for arts festivals.

Atty. Kelly stated that this would have to be a two-step discretionary process. He explained that the first step would be to get the Zoning Regulations amended to allow events such as art festivals in the residential zone. The second step, if the zoning regulation amendment is approved, would be to come back to Zoning and seek a discretionary permit for a temporary event, such as the 5 Senses Festival Pilobolus would like to have in the summer/fall of this year.

Atty. Kelly looked into how other towns address this subject. He submitted a letter dated February 26, 2018, addressed to the Zoning Commission, containing possible alternative language as well as additional considerations and his findings from the towns that have performing centers of Litchfield, Sharon/Salisbury, Sherman, Roxbury and Warren (on file in the Land Use Office). He then discussed his findings with the Commission. He stated the applicant would be amenable to the following variations: 1. 4.4.20 Events and/or Facilities for use by charitable institution in the Visual and Performing Arts, 2. 4.4.20 Events and/or Facilities for use by charitable institutions, 3. 4.4.20 Events and/or Facilities for use by 501(c)(3) institutions in the Visual and Performing Arts, 4. 4.4.20 Events and/or Facilities for use by 201(c)(3) institutions.

Atty. Kelly stated that if this change is approved and the Ingrassias and Pilobolus were to come back to the Commission seeking another discretionary permit for the 5 Senses Festival if we made no other change to the regulations, the consideration of granting that permit would require a review of the standards that already exist in Section 13.1.3. He read what the Commission must consider in granting a Special Permit. Atty. Kelly stated that the first requirement is that the event must be consistent with the Plan of Conservation and Development. He included an excerpt from the POCD encouraging the Town to support the Arts. He continued to read the rest of the requirements under this section.

Atty. Kelly stated that he would not object to adding a Section 13.20 if the Commission were to want to add more requirements. 1. That the lot have a minimum acreage of 5 acres, 2. The lots primary access must be from a State numbered highway, 3. The parking requirements of Section 15 be the same as those required for a club, dance hall or social organization, 4. Any permanent parking areas are screened by the existing or proposed topography and landscaping to maintain the residential/farming character of the surrounding neighborhood, 5. The Commission shall also consider the particular characteristics of the surrounding neighborhood and may impose other limitations so as to sufficiently protect that neighborhood such as a total number of outdoor events per year or a limitation on the hours of amplified music at any outdoor event, 6. For any proposed temporary events: A. the Commission shall note on the Special Permit that it is of limited duration and shall state a date for its expiration. These limited duration Special Permits do not need to recorded on the land records, B. the applicant may demonstrate that it meets the parking requirement of Section 15 with either available fields or arrangements for off-site parking.

Mr. Averill commented on the history of the Sculptures that were in Averill field were fine until they were advertised for sale.

Mr. Solley read Ms. Hill’s administrative report for this application.

Mr. Averill asked Atty. Kelly to clarify that there are two things we are discussing tonight: 1. A permanent place for Pilobolus, 2. A place for events where they would give performances to the public.

Atty. Kelly stated that if the Commission approves this amendment it would allow either of both of those things in the R-1 Zone. The only thing that is being proposed if this regulation is allowed is an event not a facility.

Atty. Kelly explained why he wrote the request the way it was written and “facility” was included not because there is one planned, but in case one is proposed in the future.

Mr. Solley stated that he thinks the Commission and the Public would have a different take on a facility of unknown size to be built in the R-1 Zone relative to having an event that would have to be individually applied for via Special Permit for a duration.

Atty. Kelly stated that is why they suggested adding more requirements in Section 13 so that it could be controlled by the regulations.

Mr. Solley read the introduction of an email dated February 26, 2018, from the Chairman of the Democratic Town Committee, Mr. Comer, addressed to Commissioners of the Zoning Commission regarding the proposed zoning change. The email contained a statement from the Washington Democratic Town Committee a few members abstained due to conflicts of interest otherwise the Committee unanimously endorsed the statement (on file in the Land Use Office).

Mr. Solley received a letter, dated February 23, 2018, from Mr. Comer which explained the DTCs views and recommendations for the proposed amendment. They encouraged the Zoning Commission to consider amending Section 12.8.1 as an alternative to the proposed amendment. They believe that this is a “much less onerous change than to change the underlying zoning for the entire R-1 District.” The Democratic Town Committee feels that if their recommendation is not feasible that the Commission should vote “No” to the proposed change (Letter on File in the Land Use Office).

Mr. Solley opened the floor to the Public.

Ms. Freidman stated that she made a list of possible options to support the Arts in the Town of Washington including 6 schools, Washington Town Hall, Washington Pavilion, Judy Black Park, Lake Waramaug Country Club, and The Washington Club. These places are available for any non-profit organization to take advantage of. She stated that she agrees that the regulations should not be changed for a particular applicant.

Mr. Gruson asked what is a performing arts facility and what isn’t a performing arts facility. “Is it anything with a stage?” He feels the term should be defined before a decision is made.

Mr. Solley responded that that is a good question and that there is a wide breadth in the definition of “Performing Arts Facility.”

Atty. Kelly stated that a Performing Arts Facility is a structure that would be used for the performing arts.

Ms. Freidman asked what is meant by “events” then.

Atty. Kelly stated that all of the facilities pointed out by Ms. Freidman don’t allow, under our Zoning Regulations, an event such as the 5 Senses Festival. He continued to explain that an Arts Festival is not Educational use. He said that the proposed amendment allows Zoning to regulate these events. The Regulations can have as many conditions as it sees fit. Atty. Kelly discussed different ways that this amendment to the regulations would support the Arts.

Mr. Solley stated, “But you could see that a facility could be not just a rehearsal space for the performing arts but could also potentially be a public space for the performances of performing arts.”

Atty. Kelly agreed and said that the idea here is to regulate it.

Mr. Kubovy, Executive Producer of Pilobolus, discussed the survival of arts organizations today. He said that it is more difficult for an arts association to survive in a rural area. He noted that Pilobolus has been in Washington for forty years and have rehearsed in basements, churches, and The Washington Club. He continued to talk about how they have never had the opportunity to have a sustainable home until now. Mr. Kubovy stated that the fact that there is an arts organization like Pilobolus in the Town of Washington and the fact that there is a family such as the Ingrassias that support the arts in so many ways and has decided to try to get this to happen will allow the Town to bring all of the Arts to the front of the Town as they used to be 35 years ago. He said that “To be able to plan something for more than one year at a time is absolutely critical for us to be able to actually make a go of this.”

Mr. Kubovy read a letter of support from Mr. Becker, Head of School, The Gunnery (on file in the Land Use Office)

Ms. Jaworski of Pilobolus read a letter of support from Mr. Talbot, Architect, and President of the Washington Art Association (on file in the Land Use Office).

Emily Kent of Pilobolus read a letter of support from Ms. Andrews, LPT, CPT, Health Coach (on file in the Land Use Office).

Ms. Leon of Pilobolus and resident of Washington read a letter of support from Joanne Torte of the After School Arts Program (ASAP) (on file in the Land Use Office).

Ms. Frank of West Shore Road asked if it would be possible to produce language in the Zoning Regulations for this type of Special Permit to limit eligibility to organizations that are in the Town. She feels this would ease some of the objections to this proposed addition to the regulations.

Mr. Loyd of Romford Road spoke in favor of the applicant. He feels that the 5 Senses Festival is the type of event that would further the cultural profile of the Town.

Mr. Sherr of Cook Street and involved in the economic development of the Town of Washington. He stated that the Town must consider the provision, creation, and maintenance of jobs in Town. Arts and Culture have been present in Washington for a long time and presently provides more than 8% of employment in Town. Mr. Sherr pointed out that temporary events would bring more people and money to the area and it is important to cultivate Arts and Cultural Events.

Ms. Branson of Flirtation Avenue she asked what is meant by small and intimate events.

Mr. Kubovy stated that they have decided on 2 key features for events. They feel that these events should be inclusive and bring in many subsets of the local and out of town Arts and Culture Community and that it is never bigger than what can be fit into their circus tent. He stated that they want attendees to feel the surrounding nature and have a magical experience under the sky.

Ms. Von Shreiber of the Washington Arts Association stated that she was in favor of this application. She stated that the WAA will be having their Sculpture Walk this summer and the addition of the 5 Senses Festival would be marvelous for the Town.

Mr. Solley read a letter from the Northwest Hills Council of Governments that expressed that they have reviewed this request and "finds no apparent conflict with regional plans and policies or known concerns for the neighboring towns."

Mr. Solley asked if Ms. Ingrassia would like to speak.

Ms. Ingrassia thanked the Commission and others for their support. She stated that she and her husband support the Arts and feel that Pilobolus, a world-class dance company residing in our town, should be acknowledged. She discussed how Pilobolus collaborates with the Town.

Atty. Kelly asked if there is a way to get feedback from the Commission as to the language that they would consider acceptable. He stated that they are hoping to close this public hearing and receive a decision in March.

Ms. Ingrassia stated that it was her decision to add facilities and events together so if they are ready to build a facility next year they would be able to move forward. She requested and stated that they are open to any input from the Commission that would be helpful to expedite the process.

Mr. Werkhoven stated that there are two separate issues being discussed; a temporary event and a permanent facility and he thinks they should be addressed separately so the Commission can put specific requirements and conditions for each.

Mr. Reich stated that he agreed with Mr. Werkhoven and he thinks the proposed event for this summer is a great idea but would like to deal with the two issues separately.

Mr. Averill stated that the temporary event can be dealt with under Zoning Regulation Section 12.8.1 by changing the last part of the sentence "for a period of not more than seven (7) days" to a period of not more than 30 days or whatever is needed. He stated that this would be a sign off by the ZEO and it would not involve coming to the Zoning Commission. He said that a permanent home/facility can be looked at separately.

Atty. Kelly asked if the Commission would be receptive to a change with Section 12.8.1.

Mr. Solley stated that procedurally if 12.8.1 were to be amended the process of noticing the WCOG and receiving approval from the Planning Commission.

Atty. Kelly stated that it would work because they would be able to acquire a discretionary permit for the temporary event within the same timeframe because they would not have to have a public hearing. He noted that they could apply for the facility in a separate application.

Mr. Averill stated that another one of his concerns was the number of people and the square footage/size of the tent.

Mr. Solley asked if Atty. Kelly's plan was to come back to Land Use with a petition to slightly alter Section 12.8.1 with regards to its timeframe.

Atty. Kelly confirmed that he would as well as deal with the temporary structures for that event.

There was a brief discussion regarding the timing of the petition.

Mr. Solley stated that this public hearing would have to be continued.

**MOTION:** To continue the public hearing for the Petition to Revise the Zoning Regulations with the Addition of Section 4.4.20 to Allow Events and/or Facilities for the Visual and Performing Arts by Special Permit in the R-1, Farming-Residential, District, by Mr. Solley, seconded by Mr. Werkhoven, passed by 5-0 vote.

9:18 pm - Meeting Break

**Regular Meeting:**

9:25 pm Mr. Solley called the Regular Meeting to order.

**Seated: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Ms. Lodsin**

Consideration of the Minutes:

Ms. Hill stated that in the January 22 Meeting Minutes the topic of "lighting ordinance" should have been referred to as "sign regulations." She noted that the subject is addressed in the Zoning Regulations under Signs.

**MOTION:** To approve the Regular Meeting Minutes of January 22, 2018, with revisions and Special Meeting Minutes of January 29, 2018, February 5, 2018, and February 13, 2018, by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

Pending Applications:

Hamilton/183 West Shore Road/Special Permit: Section 3.11.3/Detached Accessory Apartment:

Mr. Solley asked the Commissioners if they had any other comments or questions regarding this application.

There were no further questions.

**MOTION:** To approve the request by Hamilton, 183 West Shore Road for a Special Permit: Section 3.11.3 for a Detached Accessory Apartment per Architectural Floor Plans and Elevations prepared for Hamilton Residence by Tittmann Design and Consulting, sheets A.02-A.06 & A.12, with revision date 01-03-18, and Proposed Site Development Plan prepared for Mary Elizabeth Danehy and Rosemary J. Hanson, by Arthur H. Howland and Associates, PC, sheet SD.1 with a revision date of 01-10-18, by Mr. Averill, seconded by Mr. Reich, passed unanimously.

101 Wykeham Road, LLC/101 Wykeham Road/Revision of Special Permit for an Inn:

Mr. Solley stated that the Zoning Commission has a meeting scheduled for this application for March 5, 2018, but the Zoning Commission’s Attorney Zizka has requested that it be changed to March 6, 2018, due to medical reasons.

**MOTION:** To change the date of the Special Meeting of the Zoning Commission scheduled for 03-05-18 to 03-06-18 at 7 pm in the Upper-Level Meeting Room of Bryan Memorial Town Hall, by Mr. Solley and seconded by Mr. Reich, passed by 5-0 vote.

New Applications:

Shepaug Valley Properties/27 Mt. Tom Road/Special Permit: Sections 13.1.B.3 and 17.9/Construct New Pavillion and Kitchen on Existing Building:

Ms. Hill stated that applicant has since amended their application to exclude the kitchen addition.

**MOTION:** To schedule a public hearing for Shepaug Valley Properties, 27 Mt. Tom Road for a Special Permit: Section 13.1.B.3 and 17.9 to construct a new pavilion, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

101 Wykeham Road, LLC/101 Wykeham Road/Administrative Application for Inn:

The Commission confirmed that there is no need to schedule a public hearing for an administrative application.

Other Business:

Petition to Revise the Zoning Regulations/Addition of Section 4.4.20 to Allow Events and/or Facilities for the Visual and Performing Arts by Special Permit in the R-1, Farming-Residential, District:

This public hearing will be continued at the Regular Zoning Meeting of March 26, 2018.

PA 17-155: Temporary Health Care Structures:

The public hearing has been scheduled for March 26, 2018, to discuss this matter.

**Enforcement:**

295 New Milford Turnpike:

**MOTION:** To add subsequent to discuss an issue not posted on the agenda regarding the 202 Tavern, 295 New Milford Turnpike, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

Mr. Solley read a letter from the owners of the 202 Tavern, dated February 26, 2018, addressing the internally lit sign at this location. (on file in the Land Use Office). The Commissioners reviewed the regulations concerning signs and lighting, Section 16.3.6. Mr. Solley stated that he does not feel that the Zoning Commission should be accountable citing to an applicant every potential regulation the applicant may or may not be adhering to.

Mr. Werkhoven feels that Zoning needs to enforce this regulation or get rid of it.

Mr. Averill stated that there is a similar establishment approximately ¼ mile down the road that does not have neon signs and it seems to be doing pretty well.

Mr. Solley stated that he would like to have another discussion with the ZEO and say that it is the Zoning Commissions stance that the regulation should be enforced, period.

Ms. Lodsin asked how the owners of the establishment knew who wrote the letter of complaint. She stated that it is inappropriate.

Mr. Werkhoven stated that the ZEO does not consider that he works for the Zoning Commission and that he works for the First Selectman.

Mr. Solley agreed and stated that he would talk to both the First Selectman and the ZEO.

5 Whittlesey Road:

**MOTION:** To add subsequent business to discuss 5 Whittlesey Road, LLC application requesting to Revise Special Permit: Section 13.11.3 – Detached Accessory Apartment, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

Ms. Hill explained the application that was submitted on Friday.

Mr. Kelly stated that it is a modification to a special permit that has already been approved but they would like to move it to a different place on the property.

**MOTION:** To schedule a public hearing for 5 Whittlesey Road, LLC, 5 Whittlesey Rd for a Request to Revise Special Permit: Section 13.11.3 – Detached Accessory Apartment, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

**Administrative Business:**

Election of Officers:

The Commissioners discussed the need to vote for officers.

**MOTION:** To nominate Mr. Solley for Chairman, Mr. Reich for Vice Chairman and Mr. Averill for Secretary of the Town of Washington Zoning Commission, by Mr. Werkhoven, seconded by Mr. Lodsin, passed by 5-0 vote.

**Adjournment:**

**MOTION:** To adjourn the meeting at 10:00 p.m., by Mr. Solley, seconded by Mr. Werkhoven, passed by 5-0 vote.

Submitted subject to approval:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Shelley White, Land Use Clerk

 March 5, 2018

\*All supporting documents mentioned are on file in the Land Use Office

\*\*A recording of the meeting is available to the public in the Land Use Office.