**Bryan Memorial Town Hall**

**Washington Depot, CT**

**PLANNING COMMISSION**

**MINUTES**

August 2, 2017

7:30 p.m. Main Level Meeting Room

**Members Present:** Mr. Hileman, Mr. Rimsky, Mr. Carey, Ms.

Gager

**Members Absent:** Ms. Jahnke

**Alternates Present:** Ms. Ryland

**Alternates Absent:** Mr. Bedini

**Staff Present:** Mrs. Hill**,** Ms. White

**Others Present:** Mr. Dobson, Mr. Neff, Mr. Kleinberg

**REGULAR MEETING:**

Mr. Hileman called the Regular Meeting to order at 7:33 p.m. and seated himself, Mr. Carey, Ms. Gager, Mr. Rimsky, and Ms. Ryland.

**Privilege of the Floor:**

Mr. Hileman welcomed Ms. White back to the Land Use Department.

**Consideration of the Minutes:**

Consideration of the Regular Meeting Minutes of July 5, 2017:

**Motion:** To accept the July 5, 2017 Regular Meeting Minutes as submitted. By Mr. Rimsky, seconded by Ms. Ryland, approved 5-0 vote.

Mr. Hileman thanked Ms. Pennell and wished her well on her future endeavors.

**Pending Applications:**

Dobson/195 and 200 Church Hill Road/3 Lot Subdivision:

Mr. Hileman noted that all of the issues included in Mrs. Hill’s latest application review have been addressed. He stated that Planning received the signoff from the First Selectman for the driveway cut on Popple Swamp Road, the revised subdivision map and the revised Soil Erosion and Control Plan map. Mr. Hileman noted that Mr. Dobson and Mr. Neff were present and would discuss the revised open space requirement.

Mr. Neff stated that the plan has been revised to include all the conservation easement area to meet the requirements. He pointed out the chart on the upper left hand corner of the plan which lists the calculations and shows that the open space area is at 15.3%. Mr. Neff stated that the additional open space is on lots 1 & 2, are contiguous, contain some open field areas, wooded areas, and wetland areas. Mr. Hileman noted that the hayfield may continue to be hayed as agricultural activities are still permitted on the conserved land.

Mr. Carey asked about the entrance to the main lot. Mr. Neff answered that it is a shared curb cut for the 10 acre lot (#2). He stated that the proposed lot #2 driveway will branch off of the existing driveway (lot#1). Mr. Dobson stated that he has been working with the State D.O.T. and since the second driveway is branching off of the existing driveway there is no need for a second curb cut. He confirmed that the existing curb cut has been paved and that it will not be widened.

Mr. Carey asked if all the corners of the lots are pinned. Mr. Neff confirmed that they are.

Mr. Hileman asked if Mr. Dobson has met with the Conservation Commission. Mr. Dobson confirmed that he has and they did not express any issues with the proposed subdivision plan.

There was a brief discussion regarding the form easement language that is provided by the Conservation Commission.

Mr. Hileman stated that he feels the Commission has everything that it needs. There were no other comments from the commissioners.

**Motion:** To proceed with discussion of the proposed plan in detail, by Mr. Hileman, seconded by Ms. Ryland, approved by 5-0 vote.

Mr. Hileman proposed the following:

**Motion:** To approve the three lot subdivision proposed by Mr. Dobson at 195 and 200 Church Hill Road with the following waivers and conditions:

Waivers: 1) Waiver of Subdivision Regulation 4.4.11 The Indication of state plane coordinates on the map 2)

Regulation 4.5.4 Requiring Indication of 2ft Contours on the map 3) Regulation 10.2.1 The Inclusion of a Fire Protection Plan. Conditions: 1) That the open space configuration and easement language shall be approved by the Washington Conservation Commission 2) The Open Space configuration be clearly indicated on the final Mylar map to be filed with the Town records 3) The Land Use Office shall be notified at least 48 hours in advance of the commencement of site work so the Zoning Inspector can inspect and approve the erosion control measures, by Mr. Hileman, seconded by Ms. Ryland, approved 5-0.

Mr. Hileman asked if there were any other questions or comments from the commissioners. The commissioners looked at the subdivision plan. Mr. Hileman stated that he does not see any setback issues with wells or septic systems. Mr. Hileman asked Ms. Hill if there were any other issues that have not been addressed in this motion. Ms. Hill stated that there were no other concerns.

**Motion:** All those in favor of approving the motion to approve the three (3) lot subdivision for Mr. Dobson, as shown on the plan titled “Site Development Feasibility Plan – Breeze Hollow Farm 3-Lot Subdivision,” prepared by Brian Neff, Licensed Engineer, Sheets 4-4, with a revision date of 7-29-17, by Mr. Hileman, seconded by Mr. Rimsky, passed unanimously.

Mr. Dobson thanked the Commission.

**OTHER BUSINESS:**

**Plan of Conservation and Development:**

**Sustainability Subcommittee Report:**

No report, as Mrs. Jahnke was absent.

**Economic Development Advisory Committee Report:**

Mr. Hileman stated that there has been slight progress gathering some more information on high speed internet access for Washington Depot and New Preston Village. He stated that at the moment the committee is talking with Frontier.

Mr. Rimsky stated that he has spoken with people from the Gunn Memorial Library and Museum regarding high speed internet. He stated that they were told that they have to make a 20 year commitment to service and decided not to apply. He advised them to contact the Washington Economic Development Advisory Committee because there had been talk about bringing a Wi-Fi node up to The Green.

There was a brief discussion regarding required years of service commitments and cost. Mr. Hileman stated that he looked into this for the First Congregational Church and in the end it was found to be cost prohibitive. Mr. Rimsky stated that fiber optics are important for the Gunn Memorial Library to operate as a modern library and should be included in these discussions.

Mr. Hileman agreed with Mr. Rimsky.

Mr. Hileman stated that they are pursuing two parallel tracks right now; one being New Preston Village because there has been some interest expressed by the businesses in that location, and the other a wireless campus in the Depot.

The Commission discussed cost, how many nodes would be needed and how the installation process works. Mr. Hileman stated that the Town would pay for the installation as it would be part of the infrastructure and businesses would pay for the services.

There was a discussion regarding whether it was best to provide this service to attract businesses to this area or wait until the services are needed before spending the money to install the service.

Mr. Hileman stated that they will wait for the numbers to come in.

**Plaza Improvement Committee Report:**

Mr. Rimsky reported that there is an issue with the State that would delay the ground breaking for the plaza improvements. He stated that First Selectman Lyon called the State and was not sure if any progress was made.

Ms. Ryland stated that according to the Selectman’s Minutes, dated 7/27/17 the bid opening has been rescheduled to August 7, 2017.

**Referral from Zoning Commission/Revision of Zoning Regulations/Signs for Town Landmark Sites, Expansion of Woodville and Depot Business Districts, Updating of Section 17, etc.**

Mr. Hileman stated that he has drafted a letter to the Zoning Commission in advance of the Public Hearing scheduled for 8/7/17. He proceeded to read the letter to the Commission.

**Motion:** To approve sending Mr. Hileman’s letter addressed to Mr. Solley, Chairman, Zoning Commission, endorsing the proposed Revision of Zoning Regulations, by Ms. Ryland, seconded by Mr. Rimsky, passed by 5-0 vote.

Mr. Kleinberg was present and stated that he thinks that the proposed revision of Section 17 does contradict the POCD in that it doesn’t adequately protect the natural and scenic area around Lake Waramaug. He stated that he thinks that it also contradicts the fundamental principle of Section 17, which is to sustain nonconforming properties until they’re voluntarily abandoned and thereafter require that only a conforming structure be built to replace them. He feels that the revision is weakly drafted in such a way that it would be widely granted and basically undermines the whole town policy as to nonconforming structures. He noted that in the POCD, the Natural Resource Inventory, the significance of the natural area and the importance of protecting it is one of the policy objectives of the Town.

Mr. Hileman agreed that protecting the natural area around Lake Waramaug is an ongoing objective of the Town.

Mr. Kleinberg stated that this revision is absolutely against the Natural Resource Inventory with respect to the Lake.

Mr. Hileman advised Mr. Kleinberg that any objections he has against these revisions should be expressed at the Zoning Commission’s scheduled public hearing and that goal of the Planning Commission is to determine not if the proposed regulations conform to the POCD but if the revisions are in conflict with the POCD.

Mr. Kleinberg addressed Mr. Hileman’s comment by stating that Section 17 goes on, at length, about the Town’s policy objective of protecting nonconforming properties until they are voluntarily abandoned and then having them rebuilt only as conforming structures.

Mr. Hileman added that the section also allows a renovation of the structure as long as they are not expanding the degree of nonconformity.

Mr. Kleinberg stated that the current Section 17 talks about the nonconforming buildings and that it applies an existing Special Exception per Section 17.5 to support the continued use of those nonconforming buildings where they have a historic significance.

Mr. Kleinberg noted that Section 17.9 says that if you have a nonconforming structure, for example the 50 foot setback from the Lake, and you have a house or a boat house that is built right on the shore and is nonconforming regarding setbacks, but elsewhere on the lot you have several acres of good land where you could build a conforming house; this section allows a resident to voluntarily demolish the preexisting nonconforming house and then allow them the right to build and entirely new house on the same footprint and have a budget of nonconformity that could be used to rebuild a new nonconforming house rather than build a conforming house which is the first principle that is stated in the Section 17.1. Mr. Kleinberg stated that this is problematic because there have been so many improvements in the zoning regulations over the years that the Lake is the only area where there is a cluster of lots that were built on when it was ½ acre or 1 acre zoning and the existing soil based zoning is particularly important to the Lake. He continued to say that all of these nonconforming houses, which according to our current best thinking, are not well situated when they are within the wetlands watercourse setback. He said that all of those, according to the principle of this regulation, would like to see the structure relocated to a conforming area when the resident chooses to demolish it.

Mr. Hileman stated that he would take Mr. Kleinberg’s statement as correct but it does not allow a person to expand the existing nonconformity when rebuilding. He stated that he understands Mr. Kleinberg’s concern, but in terms of this meeting, for this commission, his concern is strictly a zoning issue.

There was a lengthy discussion regarding the impact of rebuilding or renovating and existing nonconforming structure on the Lake. Mr. Hileman stated that a nonconforming building that is being rebuilt in the same footprint will not have any more impact on the lake than the existing nonconforming structure. He stated that intensity of use is a zoning issue as well and not relevant to whether the Planning Commission finds these revisions in conflict with the POCD. Mr. Hileman continued by saying that if the regulation allowed the expansion of a nonconforming use, then it would be in conflict with the POCD.

Mr. Kleinberg stated that, “There are a number of respects in which this regulation was not thought through to reflect the protection of the Lake.” He stated that the Zoning Commission had previously tried to reflect this protection to the Lake in their regulations.

He stated that Section 17.9 is allowing the construction of a new structure in the first 50 feet that is not referenced in Section 6.5. He stated that this amendment was drafted by an attorney who represents a resident who claimed that an existing foundation was irreparably damaged and would need to be replaced.

Ms. Hill interrupted and stated that this language was prepared by Atty. Michael Zizka, the attorney for the Zoning Commission. This language was initiated by the Zoning Commission who asked Atty. Zizka to review and write the section.

Mr. Kleinberg stated that this regulation encourages people to replace a nonconforming structure with another nonconforming structure rather than slowly move the area to a better land use policy.

Mr. Hileman asked, “What if the lot in question could not accommodate a conforming structure?”

Mr. Kleinberg answered that Section 17.8 allows for the resident to repair the existing structure. He feels that Section 17.9 applies to somebody who chooses to remove a nonconforming structure. He noted that the regulation does not mention rebuilding in a nonconforming area, if one is available.

Mr. Hileman told Mr. Kleinberg that he has some interesting points that the Zoning Commission should hear at their public hearing but the role of the Planning Commission is actually, by statute, very limited in scope. The Planning Commission is to comment solely on whether the proposed revisions to the Zoning Regulations are in conflict with the POCD.

Mr. Kleinberg stated that he thinks the revisions are in conflict with the Natural Resource Inventory report that is part of the POCD.

Mr. Hileman stated, for the record, that he disagrees. He stated that unless the nonconforming structure/use is increased he does not see how it would impact the natural resources around the lake any more than what exists.

Mr. Kleinberg stated that if there is a teardown, hardscaping, etc. would certainly increase the use of a sensitive area.

Ms. Ryland noted that there are practices that would surround the site during the process that would protect the Lake.

Mr. Hileman stated that there is no case being made that these revisions would allow an increase in the nonconformity that already exists.

Ms. Gager stated that each property would have to be reviewed on an individual basis to confirm the proposed plan would have a negative impact or not.

Mr. Kleinberg stated that Zoning Regulation 6.5 specifically addresses the issue of intensified use and intends to manage it by requiring an applicant to provide a storm management plan. He continued to explain that some of the structures that were used seasonally have turned into a residences or entertainment spaces. He noted that several have installed plumbing in what used to be storage area, a boat house and docking area, and the use is intensified, the hardscape is intensified. He stated that if these things were in a conforming location the Reg.6.5 from 12-13 years ago would protect the land from that intensified use and would be consistent with the conservation of natural resources without anyone caring what happens with the structure. But, because the 50-0 setback area is not mentioned in that if this 17.9 is enacted, those projects within the most sensitive area will not have that protection from intensified use.

Mr. Hileman stated that he disagreed and feels that the Zoning Regulations state clearly that if a use is not listed it is not allowed. He reiterated that he does not see that this in conflict with the POCD. Mr. Hileman noted that some of these other things Mr. Kleinberg has brought up are legitimate concerns that he should raise with the Zoning Commission at the public hearing.

Mr. Kleinberg stated that paving a driveway which would be a coverage issue is exactly the thing that Reg. 6.5 addresses.

Mr. Hileman stated that lot coverage is factored in no matter what zone the property is located.

The discussion regarding lot coverage continued.

Ms. Ryland asked if she could make a motion.

**Motion:** “To call the question,” to end the discussion and vote, by Ms. Ryland, seconded by Mr. Rimsky, passed by 5-0 vote.

Ms. Ryland noted that both Mr. Kleinberg and Mr. Hileman had made there point and that she agreed with Mr. Hileman that this is not within the purview of the Zoning Commission.

**Motion:** To approve sending a letter from Mr. Hileman, Chairman, Planning Commission to the Mr. Solley, Chairman, Zoning Commission that states that the Planning Commission endorses the proposed Revision of Zoning Regulations: Signs for Town Landmark Sites, Expansion of Woodville and Depot Business Districts, and Updating Section 17, etc., does not conflict with the Town of Washington’s POCD, by Mr. Hileman, seconded by Ms. Ryland, passed by 5-0 vote.

**Regional Plan of Conservation and Development:**

Mr. Hileman stated that he will be emailing all the members of the Commission a draft of the Regional Plan of Conservation and Development. The Northwest Hills COG has asked them to take a look at the draft and provide comments by September 15, 2017.

Ms. Hill noted that the Sustainable Growth Policy Map has designated Washington Depot as a business development area but not New Preston or Marbledale and incorrectly shows the Green as a business development area.

Mr. Hileman stated that he has other issues with the document as well and asked that the Commissioners to provide their feedback at the regularly scheduled September meeting and he will draft a letter to the Northwest Hills COG.

**CGS 8-24 Referral/Town of Washington/17 East Shore Road/Sale of Pavilion Hall:**

Mr. Hileman stated that there is nothing to report and that First Selectman Mark Lyon would get back to the Planning Commission when he received the information.

**Revision of the Subdivision Regulations:**

There was nothing to report.

**Communications:**

There weren’t any communications.

**Administrative Business:**

There wasn’t any administrative business.

**Adjournment:**

**Motion:** To adjourn the meeting at 8:50 p.m. By Mr. Rimsky, seconded by Ms. Ryland, approved 5-0 vote.

**FILED SUBJECT TO APPROVAL**

Respectfully Submitted,

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

Shelley White, Land Use Clerk

August 8, 2017