

## ZONING COMMISSION

### MINUTES

Public Hearings – Special Meeting  
December 11, 2017

7:00 p.m.

Upper Level Meeting Room

**MEMBERS PRESENT:** Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Armstrong  
**ALTERNATES PRESENT:** Ms. Lodsin  
**ALTERNATES ABSENT:** Mr. Sivick, Ms. Radosevich  
**STAFF PRESENT:** Ms. White, Ms. Hill  
**ALSO PRESENT:** Atty. Zizka, Atty. Olson, Atty. Fisher, Atty Kelly, Mr. Szymanski, Ms. Klauer, Atty. McTaggart, neighbors, members of the public

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

Mr. Solley called the Public Hearing to order at 7:02 p.m.

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

#### **Continuation of the Public Hearing to consider the following application: 101 Wykeham Road, LLC. /101 Wykeham Road/Application to Revise the Special Permit for an Inn:**

Mr. Solley explained to the attendees that the public will have the chance to voice their opinions and concerns after the applicant has spoken.

New Commissioner, Mr. Armstrong stated that he has listened to the first 40 minutes of the recording of the last special meeting regarding this application because he was late to that meeting.

Ms. Klauer, 27 Bell Hill Rd, read a letter that she wrote addressed to the Washington Zoning Commission, dated December 11, 2017, regarding The Inn at Wykeham Rise, 101 Wykeham Rd, Washington (On file in the Land Use Office). She thanked members of the Commission and Ms. Hil for their constructive feedback and the neighbors and other community members. She spoke of the goal of building a beautiful Inn that will be a “productive economic contributor...is appropriately sized for its immediate neighborhood...and is tastefully designed...”

Ms. Klauer listed the “following changes which shall apply to all of the Guest Room Units in the Inn:

1. There shall be no oven, range, stovetop or washer or dryer. (Some units may be outfitted with a refrigerator, and all units will be outfitted with a microwave and coffee/espresso maker.)
2. Use of any Unit by a Unit Owner shall be limited to a maximum of 30 consecutive days, and a maximum of 75 days in any calendar year. Unused days will not accrue or roll over.
3. Access by Owners to their Units will be through the same check-in procedure at the front desk as applies to all other Guests.

4. Except when in use by Owners, all Units shall be available to rent to the general public as Inn Guests.
5. No parking space licenses will be sold with any Unit, i.e. use of parking spaces shall not be linked to any particular Unit or Unit Owner.
6. There shall be no individual Unit Storage facilities sold with any Unit.
7. In addition to all the above, the Units will expressly be defined as non-residential in the Declaration and Public Offering documents.”

Ms. Klauer noted that these changes will be revised in the Architectural plans, Declaration and Public Offering Statements.

Mr. Szymanski, P.E., Arthur Howland & Associates, PC was present to review the modifications to the Site Plan and the proposed elevations. He clarified the only changes that have been made to the Site Plan is some minor regrading around the rear and left side of the main building, and a retaining wall adjacent to the service entrance. He stated that they have submitted an application to the Inland Wetlands Commission for approval of these minor changes. He spoke of the drainage on the site and about the incorporation of 2 detention and water quality structures that are part of the proposed plan but are not new.

Mr. Szymanski spoke to the concern of the potential increase in intensity of use. He stated that it is important to note that this property is not served by a public sewer and that there is a septic system on site that is under the jurisdiction of the D.E.E.P. The permit limits the property to 10,450 gallons per day. He said that the permit is extremely limited and it would be impossible to increase the intensity of use because they cannot not go beyond that flow. Mr. Szymanski assured the Commissioners that if there was an event that was to have a couple extra people, they would have to accommodate it through a reduction elsewhere. He noted that if they did increase the usage they would have to get approval from D.E.E.P. and the Zoning Commission. Mr. Szymanski stated that they are not planning to do this and that they will use the existing leaching fields, replace the septic tanks and associated piping.

Mr. Solley asked if the activity level or outflow is governed by the existing system that was built approximately 25 years ago and questioned whether it would accommodate the proposed usage today.

Mr. Szymanski confirmed that it would accommodate the proposed usage because “in essence, the intensity of this site can be no greater than it was as part of the school.” He stated that it will be the same amount of usage but a different type of usage.

Mr. Solley asked how this would be monitored.

Mr. Szymanski stated that they are proposing to tie into Aquarion, which was part of the D.E.E.P. approval. The property owners will have to do water monitoring, monitor wells on the down gradient side of the leaching system and water sampling.

Mr. Solley asked if 101 Wykeham Road, LLC has applied to or contacted Aquarion to request an eventual hook up.

Mr. Szymanski stated that they “technically are connected to their system right now...when we did have discussions with them a couple years ago. There was just a discussion that we have to do some well yield tests on the existing well fields and potentially add a well to the well field.”

Mr. Solley asked for clarification as to whether the Wykeham property has a certain number of wells on the premises.

Mr. Szymanski responded, “No, I’m saying that up gradient, just uphill of Bell Hill there’s a well field up there that Aquarion has.”

Mr. Solley asked if there are plans to drills wells on the Wykeham property or do they plan to solely use Aquarion.

Mr. Szymanski stated that they do not plan to drill wells on the Wykeham property. He explained that there is a State of Connecticut approval process which involves the different well radiuses for public water supply systems and to add a well to a property within a certain radius would create issues regarding easements and ownership. He said that it is much more restrictive.

Mr. Solley asked if the leaching fields have been tested.

Mr. Szymanski confirmed that they have been tested. He explained the process of how the system has naturally renovated itself through nonuse.

Mr. Armstrong asked about the testing.

Mr. Szymanski explained that the testing is ongoing and overseen by the D.E.E.P. He explained how a testing company would be hired to take the samples.

Atty. Zizka, Zoning Commission Counsel, asked that it be clarified that the only changes to the Site Plan were made to the Site Plan as approved as part of the 2013 settlement agreement and it is the baseline.

Mr. Szymanski confirmed that it was.

Atty. Zizka asked if Mr. Szymanski would specify what the changes are between the old approved plan and this one.

Mr. Szymanski stated that the date of the Site Plan that was being presented tonight was December 2, 2016 and that the Commission may not have this version. He stated that he would submit it for the record. He noted that there is a red line that circles the changes to the Site Plan.

Atty. Zizka stated that if the Zoning Commission were to find any changes that were not circled in red should they consider those changes inadvertent.

Mr. Szymanski confirmed. He said that there is a restriction that existed but never defined on the plan, but noted in the settlement agreement and since has been added to the Site Plan.

Atty. Fisher, Cramer & Anderson, 6 Bee Brook Rd, addressed the major issues, as he sees them, in Atty. McTaggart's letter submitted last month and revised November 13, 2017. He stated that Atty. McTaggart claims that the existing inn and restaurant are nonconforming. He explained that this inn is conforming because it has been granted by special permit and the Zoning Commission has made a decision that the use of an inn, restaurant & associated amenities are allowed in this location given certain conditions. So they are not nonconforming. He noted that Atty. McTaggart claims that the main building and the pool building are in violation of the setback that is required. Atty. Fisher stated that the main building and the pool building are only 31 feet from the boundary line. He explained that through negotiations the parties involved discussed the pros and cons of what was being proposed and decided the most important issues to be addressed were intensity of use broken down into number of rooms, parking and outdoor noise. He noted that there was an agreement and it was approved by the court in Litchfield. He said the plan that was approved and incorporated into the special permit and the settlement agreement is, essentially, what has been presented tonight and there have not been any changes in the location of any of the buildings, no increase in the number of rooms or parking spaces. He discussed the topography of the site and how the building location was agreed upon by the parties in the settlement. Atty. Fisher stated that it is important to note that in the Town of Washington, a nonconforming building, its interior volume, height and footprint cannot be increased without approval of the Zoning Commission and in some cases, the Zoning Board of Appeals. He reiterated that because of the settlement and the granting of a Special Permit these buildings are not nonconforming and any changes to the interior are not subject to acquiring a variance or special permit at the ZBA.

Atty. Fisher stated that he would not go through all of the points of Atty. McTaggart's 18-page letter but he responded to some of the issues in a letter to the Zoning Commission dated December 11, 2017 regarding Wykeham Rise Inn, 101 Wykeham Road (on file in the Land Use Office). He concluded with the following comments: "The changes to the site plan are minimal. There is no change to the footprint on any of the buildings on the property. The grading that is being proposed and the small retaining wall are not going to be visible to anybody. These changes really are minimal. What's more important is that the Commission approve the substitution of elevations for the initial conceptual renderings that were submitted back in 2013."

Mr. Solley referred to Atty. Fisher's letter, and asked if there were any items that were germane to this public hearing that the Zoning Commission should hear if they were to vote tonight.

Atty. Fisher stated that his letter was a response to Atty. McTaggart's letter and he did touch on other items than what he has discussed this evening. He said that one of her statements was that the building code had been revised to eliminate the definition of transient. Atty. Fisher stated that the building code may have been revised but the definition of transient is still in there. He invited the Commissioners to ask him any questions that they might have.

Atty. McTaggart stated that she received a copy of Atty. Fisher's letter and she will be able to respond to it tonight.

Mr. Solley stated that he seems to remember discussions regarding moving or relocating the pool house in an attempt to make it more conforming.

Atty. Fisher stated that they did look into moving the pool house and he recalls that it would have encroached on the septic area.

Mr. Szymanski stated that it was relocated as part of the Paley Group application of 2015 because the configuration of buildings changed with that submission and the pool house would have to be conforming.

Mr. Averill stated that the only thing specific in the settlement agreement was an idea of an inn and a footprint. Everything else, such as the artist renderings, was not specific. He asked if it was ever specified that these were "concept only" to the parties involved in the settlement. He asked if the drawings were labelled "concept only."

Atty. Fisher responded that this issue has come up frequently. People have asked why this settlement agreement wasn't more detailed.

Mr. Averill explained his question. He asked, "...part of the settlement agreement, there were drawings, there were artist renderings and the argument has been that you are not held to those because it was just an idea. Who knew about that? Who understood that these drawings are just an idea? That the only thing specific is a footprint and some numbers?"

Atty. Fisher responded that the footprint is on very detailed plans.

Mr. Szymanski stated that, as part of the settlement agreement, he introduced 34 sheets which had a detailed construction sequence for water quality, sheets of landscaping requirements that the Zoning Commission approved with the condition that staff would have to go out and confirm that all of the buildings were properly screened and if it wasn't they would have to add supplemental landscaping. He continued to explain that the settlement agreement stated certain areas where events could be held, no outdoor grilling, no outdoor amplified music and a number of other things that were incorporated into the agreement that addressed specific concerns of the parties that were part of the settlement agreement.

Mr. Averill stated that the artist renderings depicted a 3 story building and now it's 4 story's...

Mr. Szymanski said, "The two conceptual renderings, they didn't even have a scale on them."

Mr. Averill confirmed that he understood that they were conceptual. He continued, "and all that was agreed upon was that those buildings would have a footprint, have so many rooms and that's it. I just want to be clear."

Atty. Fisher asked the commission to recall the plans and elevations that were submitted and how one of the neighbors stated that they looked like military barracks. He said that they have submitted elevations that “show a beautiful building. Especially when you compare it to what was previously discussed and what was not approved, eventually.”

Atty. Kelly stated that all the conditions of the Special Permit identify concerns specific to the application itself. He explained that when the Commission is saying “just a footprint” they are not taking the zoning regulations into consideration. The conditions of this special permit and the specific information on the site plan is identifying those things where there may be discretion or specific points that the parties agreed to in the settlement. He stated that whatever was not specified has to conform with the regulations in all other areas. Atty. Kelly stated that the zoning regulations do not regulate interior floor area the only reference to floor area defines floor area as footprint. He stated that the settlement agreed to buildings in that footprint that conform to the zoning regulations in all other respects.

Atty. Kelly stated that the Town regulates the height of the building and the proposed buildings conform with the regulations. He explained to the Commission that with this current application they are looking to swap the renderings with other defined architectural drawings that they think are more aesthetically pleasing and still fully conform with the regulations.

Mr. Solley asked Atty. Fisher if his assertion that this specific property, because of the decision by special permit/settlement agreement overseen by the court, that this property is now not nonconforming in that it would not be allowed on a town road and the other aspects of the regulations that would prevent this use on this property, based on case law.

Atty. Fisher responded that the first issue has to do with the uses. The Zoning Commission cannot approve a special permit for uses that are not specified in the regulations. He noted that Inns are specified as being a special permit use and at the time of the first application the regulation was vague regarding inns on town roads vs. a state highway. The Commission decided that an inn with a restaurant and its amenities is a permitted use with the conditions that were imposed and is not a nonconforming use. Atty. Fisher stated that the setbacks on the buildings were addressed in the settlement.

Atty. Zizka asked Atty. Fisher to clarify a statement in his letter because he feels the Commission needs to know, for the record, whether the applicant is asking to swap out the renderings with which, at the time of the settlement, there were no restrictions on floor area or volume for the new elevation drawings. He asked if there is, in fact, an increase in volume of any of the buildings over what was approved with the old renderings and if so, what is the purpose of those increases.

Mr. Szymanski stated that there are only the two conceptual artist renderings and as part of the settlement agreement there were no floor plans or elevations. He said that the floor area was not contemplated at the time of the settlement.

Atty. Zizka agreed that this might be true but would like clarification as to how many floors the renderings are depicting versus how many floors are being proposed in the elevations that were submitted with this modification.

Mr. Szymanski stated that they can't say. He noted that dormers were added to the elevations and were not shown on the renderings.

Atty. Zizka stated that there was an agreed limitation to the number of rooms. He asked if there is an increase in volume but no increase in rooms, what is the expansion for.

Atty. Fisher stated that the interior has been done in a way that increases the space in several areas. He confirmed that there is an increase in interior volume, they do not have the numbers, but it is not an increase in the intensity of use.

Atty. Zizka asked since there is an increase in interior volume is there an increase in the floor area.

Atty. Fisher stated that there are no floorplans so they do not have any floor area calculations.

Atty. Zizka asked Mr. Szymanski what resulted in the increase in volume.

Mr. Szymanski responded that they now have an expert in inn design.

Mr. Solley addressed Mr. Szymanski and stated that they have had discussions, with regards to the renderings, that in the main northerly elevation of the Main building there were basically 3 levels at or above grade and the length of the building was made of many gables and there were no indications of dormers or windows. He stated that this was pointed out and Mr. Szymanski stated that they have not ruled out the thought.

Mr. Szymanski responded that he did not say that but that the area within the roof itself, portions of it could have been finished.

Mr. Solley stated that looking at the renderings there was no indication that there would be a fourth level.

Mr. Szymanski stated that they also did not discuss what was below grade. He said, "It was taken it at face value as it was presented."

Mr. Solley agreed and stated that the renderings suggest three levels and the Commission had no idea that there was going to be a fourth level or a level that would be within the rafter of truss space.

Mr. Szymanski stated that it is the same thing as if they were to have finished space below grade. He did not agree that they have added another floor to the main building but added dormers to the roof system. Mr. Szymanski explained that they had no idea how many levels

existed in the renderings because they were not detailed enough to illustrate the number of levels.

Atty. Kelly stated that anyone could look at the renderings and the current elevations and see that there are differences. He explained that whether or not there was a truss system or an additional floor is not clear. He stated that the important thing is to focus on the site plan and the settlement conditions. The renderings were intended to be an example of conforming buildings not elevations. The T.O.W. Zoning Regulations do not regulate how many floors are in a fully conforming building. Atty. Kelly stated that the elevations are part of the Special Permit Modification.

Mr. Werkhoven stated that there were a lot of things that were not specified in the settlement agreement. He asked how the Zoning Commission can compare when there wasn't anything there originally.

Ms. Klauer stated that one of the things that all parties to the settlement agreed to and signed was that, she read from the settlement agreement; "the agreement does not violate law, rule, regulation, contract or agreement otherwise enforceable against the respective parties." She stated that they all agreed to the location of the buildings and the setbacks and agreed and accepted, by law, that they were not violating any regulation there. She explained that "the Commission is really bound by that representation that no regulations were being violated at that time."

Ms. Klauer spoke with regards to the volume. She stated that there were some restrictions that were put on the volume with the spa building and there could have been square footage requirements for the other buildings at that time but none of the parties were willing to address it at the time. She indicated that there was a discussion regarding the interior square footage of the main building but it was not included in the settlement.

Ms. Klauer proceeded with a history of this project at 101 Wykeham Road. She stated that from the beginning they were committed to build an inn within the regulations and State Statutes and the settlement agreement. She has signed a contract and has been working with Ocean House. She stated that Ocean House is committed to working with her to build an inn in Washington. She explained that the Ocean House has a certain number of units that are owned by individuals who use these units as any other guest would. They check in and out at the front desk, none are used as residences. She stated that all but one of those owners put that unit back into the rental pool when not in use and the average stay is approximately 2-3 weeks. Ms. Klauer said that there are two main reasons why the owners said they bought these units; 1. They are sure to stay in the room that they like with the views that they like, the location of the amenities that are important to them 2. They enjoy the income when they are using them.

Ms. Klauer explained the difference between condominiums and condominium ownership. She stated that it was a conservative way to operate the property without debt. When the units are sold the construction loan is paid off and the hotel is able to operate without debt. Ms. Klauer said that she appreciates the communities concern regarding multiple family housing, which is



why the plans were adjusted and she is here to work with the Zoning Commission and the community.

Atty. McTaggart was present to represent abutting property owners of 101 Wykeham Road. She stated that she had learned of the November 1, 2017 change to the Zoning Regulations in Section 17, the nonconforming use section, and she looked at this regulation prior to the change and after and there is no change in her opinion. She explained that a legally nonconforming use is one that is legally created and these inn and restaurant uses remain a nonconforming use and cannot be expanded.

Atty. McTaggart wanted to clarify that her clients have never disputed the settlement and never said that it wasn't legal but that at this time there is no allowance for an inn other than on a State highway with 500' of frontage, restaurant or multifamily dwellings allowed in this zone. She informed the commission that a special permit was issued for an inn and restaurant at this property but the Zoning Commission does not have the authority to allow expansions of nonconforming uses.

Atty. McTaggart stated that they think there is a substantial increase in the volume compared to what was agreed to in the settlement and approved in the special permit. She noted that the rendering was submitted to show a concrete example of what could be built there which was 3 floors with a basement. She stated that now there are elevations depicting more floors and the number of units keep changing. Atty. McTaggart stated that the public offering statement has to indicate what the restrictions are on use, show what the units are going to look like, square footage of each unit and other specifics.

Atty. McTaggart submitted a letter dated December 11, 2017 (on file in the Land Use Office). She stated that it summarized what she just spoke about regarding Zoning Regulations §17.1, 17.3 and 17.6. She said the question is whether there have been expansions proposed by the new plans. Atty. McTaggart mentioned the detailed review that Ms. Purnell submitted at the last meeting, in which she analyzes the size of the approved buildings via the 1/7/13 Settlement Agreement and calculates that the total square footage of the approved submission is 90,252 SF and the current proposal is estimated to be approximately 123,480 SF.

Atty. McTaggart explained that a special permit is not conceptual. If there were 54 units approved and now there are 45 units being offered, then there is extra space that is being used for something else and the use of this extra space does matter. She stated that the interior space has increased from at least 32,328 SF to 90,252 SF and now 123,480 SF. She informed the Commissioners that they should be provided with these details because it isn't just about the volume but how that space is going to be used.

Atty. McTaggart stated that this is one of the largest projects in Town and it impacts the neighbors. She said that every time there is an increase of 35% there is an intensity in how that is used. She noted that there are balconies on the outside - which means more noise on the outside, there are huge windows that will show up as bright areas in this rural dark street neighborhood that would impact the neighbors.

Atty. McTaggart addressed the response letter from Atty. Fisher. She noted that the public offering statement that is online states that “no inn unit will be used as a single family use or a residence dwelling” which are defined terms in the zoning regulations and their concern is that it doesn’t say that none will be used as multifamily dwellings. Atty. McTaggart stated that she has no problem with the setbacks that were agreed upon in the settlement, but there is a concern that since the building is being changed, they are supposed to make the building conforming. She stated that the height is a concern because it is supposed to be the height that was in the rendering, which is questionable, and it did it expand. The plans are supposed to be consistent with the neighborhood, character and all other aspects of the Commission should be looking at. She said that the rendering could have shown a 20-foot height but that does not mean that they can increase the height to the allowable 40 ft.

Atty. McTaggart is concerned that this application basically says that “at the appropriate time we will bring a declaration in and we will apply for an administrative zoning approval for that.” This worries her because if this Zoning Commission were to approve the application and not say anything about what is or is not included in that approval that the applicant would argue that they could write in the application that they are going to come in and do that administratively, so you must have approved this. She stated that this should not happen because when the use comes in that residential use must be looked at. She noted that plans without kitchens have not been submitted and those should be reviewed by the Zoning Commission. Atty. McTaggart stated that the documents gave the name to the project as Wykeham Rise Inn and then the units are described as “Inn Units” but “Inn Units” is sort of what the name of what the inn is and if you read the document carefully you will notice that you can change the number of 45 units at any time in the declaration and convert them to this residential type use that no matter what they are when they start they are convertible to that use and that’s the use that is being approved.

Atty. McTaggart asked for clarification regarding the Health Department and State D.E.E.P. approvals. She thought she heard that they are using a grandfathered approval for an existing septic system. She said that the zoning regulations incorporate the health code into the regulations which means it cannot be approved if it doesn’t meet one of the regulations. She asked if this zoning commission has anything from the Health Department or the D.E.E.P. showing the status that these proposed plans and use this existing septic system.

Atty. McTaggart concluded by saying that this Zoning Commission should demand more details so it is known what this project is, what is being built there, and the internal plan will tell what the uses are and whether they are consistent with the settlement agreement and the existing special permit.

Mr. Solley asked if the Commissioners had any questions for the applicant.

Diane Decker of New Preston stated that she likes the idea of an inn but she is not here to talk about the inn and its possible benefits. She said that she like to talk about the truth. Ms. Decker talked about her experience with putting up a fence, filling out the application and getting the right approvals for the first fence, going through the process again to add taller sections to the fence. She stated that when the property started to build a stone fence without

any permits that was not being honest or following the rules. She said that when she wanted to build a 650 SF guest house she went through the permitting process again, filling out applications going to meetings, answering the Commissioner's questions and getting the appropriate approvals. Ms. Decker asked why the applicant cannot submit a detailed plan when there are very specific plans that were online all summer and just taken off 2 weeks ago. She proceeded to hand out printed copies of the condominiums that were being advertised online. She stated that she was here because she feels that everyone needs to do their job and be honest.

Mr. Owens, Architect, 45 Christian St, New Preston, stated that he has been a resident of the Town of Washington since 1967, has served on Land Use commissions and was the architect who designed the predecessor of the proposed Wykeham Main Building. He submitted an architectural review to the Zoning Commission, dated 12-11-17 with the intent to reduce confusion and ambiguity, illustrate the relationship between the proposed main building and the main building from the renderings of the settlement, and assess compliance of the proposed main building with the building height (on file in the Land Use office). Mr. Owens stated that there is no intent on his part to suggest that the PROCON plans are relevant to any issue other than establishing architectural characteristics of renderings A & B.

Mr. Owens quoted the Zoning Commission Meeting Minutes of 1/7/2013 which read, "Atty. Olson said if the plans and architectural renderings were incorporated in the motion, it would be clear what was being approved" so the renderings are the sole representation of the architectural characteristics of the proposal. He displayed "Illustration A" of his review. In these illustrations, the PROCON plans that were approved are compared to the newly proposed Wykeham Main Building. He noted that based on the PROCON renderings the drawings were set to the same scale as best they could and there is no way to decipher what is below grade from those renderings. "Illustration B" depicts a comparison of the sections, floor levels and the roof of the Main Building which was also examined in consideration of the height of the building. Mr. Owens concluded that between the plans, the currently proposed plan shows a net of 43,168 SF, an increase in height of the 3<sup>rd</sup> and 4<sup>th</sup> levels as well as an additional 5<sup>th</sup> level, +/- 192' of flat roof/dormer area (proposed building length is 342'-6"), which allows for +/-4,500 SF flat roof including the dormers on level 5. He stated that the Zoning Commission is concerned with dimensional characteristics such as shape and volume and questioned whether the dormers should comply individually as flat roof or shed roof and how the height should be measured when there is an ornamental gable roof.

Atty. Zizka asked, for the record, Mr. Owens to state what his qualifications and his familiarity of the project.

Mr. Owen stated that he is qualified as a registered architect and his familiarity of the project is by virtue of having designed the predecessor.

Monique Gil-Rogers of Moody Bridge Road read a letter she wrote to the Zoning Commission expressing her concerns regarding the Wykeham Road Resort. She stated that she is concerned with the size of the project and the lack of transparency with which this proposal has proceeded. She said that the size of the originally approved inn by special permit, located in the R-1 Zone and on a Town Road, has expanded by 400% with this current proposal. She feels this is in total disregard to residents and land owners in this residential neighborhood. She

stated that the function of the Zoning Commission is to protect the property owners not compromise the interests of the residents and land owners in this area. She said that the Zoning Commission must honor the implied expectations of the residents who have purchased property and live in a residential zone to allow a large scale commercial venture in a residential area "particularly when it fails in its most recent plan to meet existing zoning guidelines is a gross injustice to the residents who live in the zone and a mockery of the existing zoning regulations." She stated that she feels the Zoning Commission should protect the property owners of the area from applications that "shamelessly disregard the rights of others." She feels that this proposal shows that the applicant has total disregard to the residents of the Wykeham area. Ms. Gil-Rogers noted that at the last meeting for the topic of the planned condominium units was "cleverly forbidden to be discussed despite the fact that the condominium units are already advertised on the internet prior to their being approved by this Board." She stated, "these are bold and unethical manipulations by the applicant and need to be prevented by this Board." She concluded that she was speaking for herself and her husband, Hugh Rogers.

Karen Davis of Quarry Ridge state that she has lived in Washington for 17 years and has witnessed many contentious projects that have turned out very well. She said that both the Devereaux Glenholme School and the Gunnery athletic fields on South Street are examples of projects that many of the neighbors of the surrounding areas were against. The applicants spent an enormous amount of money defending themselves and both projects have turned out very well. She noted that both institutions create jobs, revenue and draw visitors to the area. Ms. Davis stated that the owners of 101 Wykeham have experienced objection from the neighbors, lengthy stalling tactics, court battles, rebuttals from the neighbors, and "the process to acquire a certificate of compliance has been dragged out longer than necessary and at great expense to the applicant." She stated that she sees the positives of this project as creating jobs, revenue, awareness of the natural beauty of this town. She believes the Zoning Commission should be more proactive in helping applicants build a successful project.

Mr. Smith of Parsonage Lane stated that Mr. Szymanski, engineer, "said that we need not worry about this because they can only put 10,400 gallons of water a day through the system." He said he would like to understand how this capacity is calculated and he does not feel that Aquarion will shut off the water for that day should this capacity be exceeded. He said he would like hard numbers and that he has never heard of developing a plan from a drawing of a façade because budgets need to be considered in order to figure out cost.

Meagan Lutz of Woodbury stated that she has worked in the Town of Washington for many years as wellness expert and naturalist and connected with Ms. Klauer and the Ocean House group approximately a year ago. She stated that she has been working with the team in developing the naturalist program that they plan to offer. She said that it is important that the plan welcomes families. They plan to have a mostly organic and locally sourced menu. She noted that the main building would not be seen from the main road due to the landscaping plan, it complies with height requirements and is a vast improvement from renderings A & B.

Ms. Lutz mentioned that the proposed grading would be in back of the building and not be seen by anyone. She feels that Wykeham Rise would be an asset to the Town of Washington.

Mr. Parker of Bell Hill Rd read his letter addressed to the Zoning Commission dated December 11, 2017 (on file in the Land Use Office). In his letter, Mr. Parker points out that inns are not permitted on town roads in Washington because they bring commercial enterprise to residential neighborhoods and create traffic and noise. He noted that this "massive resort" was approved in 2013 through litigation on a legal technicality and now the surrounding residences must bear the consequences. Mr. Parker stated that he and his husband were aware of the school when they bought their property but they did not expect this proposed use will into a much more active commercial center. He feels that the property owner has been negligent in taking care of the property and feels that the approval in 2013 was a gift and now they are asking for more. He urged the Commission to deny this application.

Ms. Parker of Green Hill Rd, asked why the debris from the fire is still on the property. She questioned whether the owner was not allowed to remove it or chose not to remove it. She stated that does not give her confidence that the property owner cares about the neighborhood. She noted that for the period of 4 ½ years that she has lived here she has seen the traffic increase. She stated that she was supportive of the idea of a small inn but now it is proposing to be much larger and the traffic will increase even more. She informed the Commission that when she wanted to put up a fence on her property she had to submit exact plans and pictures and she doesn't understand how the applicant has a plan that doesn't have a plan and the Commission and the public are to "just trust us." She informed the Commission that these units have been offered on Zillow and they have not been approved by the Town.

Mr. Averill stated that relative to what Ms. Parker just said; my family has been in this town for over 270 years and a citizen's status is not relative to how long you have lived here.

Ms. Diddas of Roxbury, read a letter to the Zoning Commission from Ms. Forese of Horse Heaven Rd dated December 11, 2017 (on file in the Land Use Office) in favor of the of the Inn and requesting that the application be approved for the project to proceed. She read a letter from Mr. Henley & Mr. Glickman of George Home, LLC on Titus Rd dated December 11, 2017 (on file in the Land Use Office). Mr. Glickman and Mr. Henley are familiar with other Ocean House properties and feel that the proposed Inn with its current design would be a beneficial addition to the Town of Washington and that it would create jobs in the community. From a design perspective, they view the architecture as attractive and fitting for the neighborhood. They encourage the Commission to approve the zoning and special permit applications.

Ms. Minor of Old North Rd addressed the issue of water and the water company, Aquarion. She said that this system was formerly the Judea Water System and it was less than reliable. She noted that there are repairs currently going on. Ms. Minor informed the Commission that they are not permitted to drill a well on their property so they are at the mercy of Aquarion. She questioned how Aquarion was going to be able to supply the needs for a large inn and spa as well as the homes that rely on the system.

Mr. Duke of Old North Rd stated that he attending the hearings for Wykeham with its first application for an inn. He feels the Town was worried about its economic future and was hoping that this would bring jobs and vitality to the area. He said that the record of Wykeham Rise is dismal. There have been false starts, sneaky maneuvers, managerial ineptitude and a shocking disregard of the impact on the Town. He listed some positive changes that have made Washington a better place to live but that 101 Wykeham Road has been left in disrepair. He stated that Wykeham Rise, LLC has spent its time and resources on advertising its property. Mr. Duke questioned the financing of the proposed inn and asked that honest answers and accurate plans be provided to the Zoning Commission.

Mr. DiPerno of Wykeham Road stated that his main concern is this proposed inn fitting in aesthetically. He said that he does not see anything looking like this proposed building in this region and that it looks like it would belong in Lake Tahoe or Telluride. He informed the Commission that he is also concerned about the traffic and potential noise.

Ms. Driscoll of Judea Cemetery Rd addressed the issue of property values deteriorating. She said that the Wykeham site is an is an issue. They sold their house at a loss because they were afraid that it wouldn't sell at all. She encouraged the Commission to look at all aspects of the proposed plan and increases in space.

Mr. Drucker of Mallory Brook Road stated that he understood the special permit was approved through the settlement process and that details would have to be negotiated but it would have to comply with zoning. He reminded the Zoning Commission that their duty is to protect and preserve the residential community.

Ms. Minor was present on behalf of the Rivers Alliance and stated that they support Atty. McTaggart's brief. She stated that the Alliance has certain red flags they look for in a project and the first one is when there is a change in an old special permit. She said the second one is undefined spaces in the plan and the main concern is water resources; water supply, waste water and storm water management and how the aquifer will be protected. She noted that the Town of Washington is stressed in these three areas and the change could put more stress and requires a new review of the project.

9:42 Chairman Solley called for a break of ten minutes.

9:53 Chairman resumed the meeting.

Mr. Solley asked that any of the public that would like to speak that they comment on the changes to the site plan that include regrading, retention wall and the exchange of Renderings A and B for T – 3 pages and U – 2 pages. He reminded the public that 101 Wykeham Road, LLC has a permit to build an inn today and this cannot be changed.

Mr. Rogness of Bell Hill read his letter that was addressed to the Zoning Commission of Washington and dated December 11, 2017 (on file in the Land Use Office). He stated that the Wykeham Rise project shouldn't be larger and more intensely developed that allowed by the settlement agreement of 2013. He read a brief history of the various proposals for the property. Mr. Rogness suggested that the Commission require the same type of information

that they did in 2008. He emphasized the evaluation of the traffic impact, review of a comprehensive landscaping and planting plan, consideration of noise, parking and surrounding real estate value.

Mr. Solley asked that in the consideration of time to please keep the comments to four minutes.

A letter from Ms. Root supporting the proposed project was submitted (on file in the Land Use Office).

Ms. Giampetro of Wykeham Road stated that she is concerned with the changes and what they will do in her neighborhood. She noted that from the drawings it is clear that there are many more windows and floor to ceiling windows which are different from the renderings. She said that the amount of light will permanently alter the neighborhood experience at night time and is light pollution. Ms. Giampetro doubts that this light will not be seen at the property line. She read Section 13.1.C.8 from the zoning regulations. She noted that there were many new terraces and gathering spaces than what was depicted in the renderings and questioned how the noise would be contained. Ms. Giampetro asked if it was standard practice for an applicant to sue various boards of the Town when they do not vote in favor of the applicant. She stated that the Town of Washington has been sued numerous times by this applicant in an attempt to manipulate and intimidate land use commissions to allow greater commercial development.

Mr. Phillips stated that he thinks enforcing the speed limits would improve the quality of life in Washington. He supports Ms. Klauer's plans to build the inn and encouraged the public to focus on what the relevant issues are which are the modifications to the existing special permit for an inn. He stated that the minor grading behind the building will not be seen by anyone and the change from the renderings to the current plans are a vast improvement.

Mr. Steinmetz of Old Litchfield Road he acknowledges that there is a special permit for an inn to be built at 101 Wykeham Rd and he thinks what was approved should be built.

Mr. Barnet of Sabbaday Lane submitted a letter to the Zoning Commission dated December 11, 2017. He stated that he applauds Ms. Klauer's efforts to build a beautiful inn but only on a scale that is appropriate to the neighborhood. He noted that Atty. Kelly stated that the applicant has the right to build a forty-foot building because that is the maximum height under the building regulations. Mr. Barnet stated that under a special permit situation the Zoning Commission has the right to consider the size, scale, portion and appearance of the buildings. He informed the Commission that the main building already has a footprint of 24,000 SF. He noted that the White House in Washington D.C. is 55,000 SF. He stated that this building is approximately 90,000 SF and four floors. Mr. Barnet said that he did not agree with Mr. Szymanski's claim that they just added some dormers on the roof. Mr. Barnet estimated that the main building has increased in height by 10 ft with the addition of the fourth floor. He concluded that this is an expansion of a nonconforming use, it's just too big and he feels it should be denied.

Ms. Barnet of Sabbaday Lane stated that what concerns her is that the plans do not show how the space will be used and she advised the Commission to ask for detailed plans. She said that the use issue is not an administrative issue as Atty. Kelly alleges. She pointed out that if this is a multifamily dwelling and it has a bar and restaurant it would be considered multi-use which is not permitted and this would be an expansion of the nonconforming use. Ms. Barnet noted some of the last-minute changes and the delays that have occurred. She stated that the Zoning Commission should deny this application because of the increase in volume, the addition of a floor and the other issues Mr. Owens had discussed.

Theresa Peacocke of Bell Hill Rd commented on the settlement agreement of which she was a party to. She stated that the stipulations included in the agreement were carefully considered. She noted that they concentrated on everything that would control the intensity of use and if the appeal had gone through these stipulations would not exist.

Mr. Solley stated that Ms. Purnell would be the last speaker for tonight and afterwards they would discuss how to proceed.

Ms. Purnell asked if she could clarify some comments made before her four minutes began.

Mr. Solley stated that he did not want to start a debate.

Ms. Purnell stated that she is at the meeting because she does not feel that the Commission is being told the truth. She explained that Mr. Szymanski stated that the only changes to the site plan are the retaining wall and the regrading in the back. She disputed this and noted that the air conditioning units and pads are gone and there is a reconfiguration in the front of the main building. Ms. Purnell stated that the applicant has not submitted anything to the D.E.E.P. for approval. She noted that the last information submitted to the D.E.E.P. was for the Paley House. At this point 101 Wykeham Road, LLC has an approval to handle it as a general permit registration. They have not submitted floor plans, a stormwater management plan and other pertinent information and it is inaccurate for Mr. Szymanski to say that they have a 10,450-gallon capacity. Ms. Purnell addressed the concept of a guest room unit and how the unit can have 1-4 bedrooms. She informed the Commission that floor plans for the PROCON buildings had been submitted to the D.E.E.P.

Ms. Purnell was informed of the time. She asked that she be able to continue to develop the record because the Commission will probably close the public hearing tonight.

Mr. Solley stated that he was not sure that was going to happen because the Commission needs more information. He said that the applicant would have to request a continuation.

There was a brief discussion regarding how to proceed.

Ms. Klauer submitted a letter requesting a continuation.

**MOTION:** To continue the Public Hearing to consider the following application: 101 Wykeham Road, LLC./101 Wykeham Rd/to Revise the Special Permit for an Inn, at a Special Meeting



scheduled for January 9, 2018, at 6:30 pm, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

**Executive Session:**

**MOTION:** To go into Executive Session to discuss 101 Wykeham Rise, LLC. Litigation at 10:42 pm, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

**MOTION:** To come out of Executive Session at 11:28 pm, by Mr. Solley, seconded by Mr. Reich, passed by 5-0 vote.

**Vote to Waive Conflict of Interest:**

Atty. Zizka briefly explained the reason 101 Wykeham Road LLC. Had appealed Zoning's denial of its administrative application for an inn to both the ZBA and to the Superior Court. He also explained why a waiver of conflict of interest was required so that he may represent both the Zoning Commission and ZBA in this matter.

**MOTION:** In the matter of 101 Wykeham Road, LLC./101 Wykeham Road/Appeal of Zoning Commission Denial of Administrative Application for an inn; to waive conflict of interest so that commission counsels may represent both the Zoning Commission and the ZBA, by Mr. Solley, seconded by Mr. Averill, passed 5-0 vote

**Adjournment**

**MOTION:** To adjourn the meeting at 11:34 p.m. By Mr. Averill, seconded by Mr. Reich, passed 5-0 vote.

Submitted subject to approval:

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