

• January 26, 2004

MEMBERS PRESENT: Mrs. Friedman, Mr. Martin, Ms. Page

MEMBERS ABSENT: Mr. Fitzherbert, Mr. Owen

ALTERNATES PRESENT: Mr. Abella, Mr. Brinton

ALTERNATE ABSENT: Mr. Shapiro

STAFF PRESENT: Mrs. Hill, Mr. Sears

ALSO PRESENT: Mr. McGowan, Mr. Byerly, Mr. Papsin,

Mr. White, Residents, Press

PUBLIC HEARINGS

Revision of the Zoning Regulations/Section 17.5/Special Exceptions

Mr. Martin called the public hearing to order and seated Members Friedman, Martin, and Page and Alternates Abella and Brinton for Mr. Fitzherbert and Mr. Owen. Ms. Page read the legal notice published in **Voices** on 1/14 and 1/21/04.

Mr. Martin explained the Zoning Commission and Zoning Board of Appeals had been working on this section for over a year. He said both boards thought it would be beneficial to introduce limited flexibility to the setback and lot coverage regulations as they pertain to affordable single family homes and farm buildings.

He read the written comments received for the record. In his 1/22/04 memo, Mr. Bender, Planning Commission Chairman, stated that Commission had no objections to the proposed revision. The 9/22/03 memo from Mr. McGuinness, Director of the NW Ct. Council of Gov'ts was read. Mr. Martin responded to several of the points raised. 1) Mr. McGuinness noted Special Permits and Special Exceptions are the same under Section 8-3d of the CGS and thought it was unusual and unique to have one commission decide Special Permits and another to decide Special Exceptions. Mr. Martin said the Commission was aware there was no legal difference, but was using different terms to make it easier to understand the process. He also noted that Zoning Counsel's opinion was that this was not unique in Connecticut and was authorized by the Ct. General Statutes. 2) Mr. Martin explained there were no limits proposed for setbacks as there was for lot coverage because the Commission thought the setback issue was self limiting and did not want to take discretion away from the ZBA. 3) Mr. McGuinness recommended reducing the setbacks across the board in some districts. Mr. Martin said the Commission had decided not to do this so that common sense and judgement could be applied on a case by case basis. 4) Mr. Martin also noted that there were limited circumstances under which Special Exceptions could be applied for and he expected there would not be so many applications that it would become a burden for the Town or its citizens.

Mr. Martin read an excerpt from page 5-4 of the 2004 Plan of Conservation and Development in support of the Special Exceptions process.

Mr. White, Chairman of the Zoning Board of Appeals, spoke in favor of proposed Section 17.5. He explained the ZBA often can not find a

hardship when variances are requested for historic homes and barns, but by using the Special Exception language, it would be able to approve work to such properties that would enable them to adjust to current life situations and thus, extend the useful life of the building. He noted, too, that the section includes specific criteria upon which approvals would have to be based.

Mr. Martin pointed out two grammatical changes that would be made to the proposed text. 1. The last phrase in E should be, "**an** A-2 Survey...." 2. At the end of 17.5.A.1, the period should be deleted and, "**;** **and**" added so it is clear both #1 and #2 apply.

Mr. Martin briefly reviewed the criteria in Section 17.5 and noted all the Special Permit criteria in Section 13 also apply. He responded to a question from Mr. McGowan, informing him only the setbacks listed in Section 11 would be eligible for Special Exceptions; setbacks from wetlands and watercourses would not.

MOTION: To close the public hearing to consider the revision of the Washington Zoning Regulations, addition of Section 17.5: Special Exceptions. By Ms. Page, seconded by Mr. Abella, and passed 5-0.

Mr. Martin closed the public hearing at 7:48 p.m.

Town of Washington/59 East Shore Road/Special Permit: Section 6.4.6/Fence of the Lake Waramaug Side of East Shore Road

Mr. Martin called the public hearing to order at 7:49 p.m. and seated Members Friedman, Martin, and Page and Alternates Abella and Brinton for Mr. Fitzherbert and Mr. Owen. It was noted the hearing had been continued because the applicant had not notified the adjoining property owners.

Mr. Martin read the 1/26/04 ZEO Report, which stated the application was now complete.

Mr. Martin asked Mr. McGowan if the Lake Waramaug Task Force had any objections. Mr. McGowan responded that the matter was outside the Task Force's purview.

The proposed location of the fence was discussed and Mr. Sears pointed it out on the survey map.

Mrs. Friedman asked if any views would be obstructed. Mrs. Hill said they would not because the proposed fence was chain link and could be seen through.

Mr. Sears stated the purpose of the fence was to prevent illegal access to the lake over Town property.

There were no comments or questions from the public.

MOTION: To close the public hearing to consider the Special Permit application submitted by the Town of Washington, Section 6.4.6, to erect a fence at 59 East Shore Road. By Mr. Abella, seconded by Ms. Page, and passed 5-0.

Mr. Martin closed the public hearing at 7:56 p.m.

These public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Martin called the Regular Meeting to order at 7:57 p.m. and seated Members Friedman, Martin, and Page and Alternates Abella and Brinton for Mr. Fitzherbert and Mr. Owen.

Consideration of the Minutes

Mrs. Friedman noted on page 6, the last two bullets should be 14.7.13 and 14.7.16.

MOTION: To accept the 12/15/03 Regular Meeting minutes as amended. By Mrs. Friedman, seconded by Ms. Page, and passed 5-0.

Pending Matters

Revision of the Zoning Regulations/Section 17.5/Special Exceptions

It was the consensus that the language had been tightened and criteria added to make the proposed Special Exemption application process workable. It was noted that adjustments could be made in the future if they are found to be necessary. Mr. Martin thanked the Zoning Board of Appeals for its efforts.

MOTION: To approve the revision of the Washington Zoning Regulations; the addition of Section 17.5: Special Exceptions with the two corrections as noted at the meeting and the renumbering of the subsequent sections as appropriate; the effective date to be as soon as legally possible after the publishing of the legal notice. By Mr. Martin, seconded by Ms. Page, and passed 5-0.

Town of Washington/59 East Shore Road/Special Permit: Section 6.4.6/Fence on the Lake Waramaug Side of East Shore Road

Ms. Page voiced her support of the application, saying the fence would not harm the view and would help to clean up the area.

MOTION: To approve the Special Permit: Section 6.4.6 submitted by the Town of Washington to erect a fence at 59 East Shore Road. By Mr. Abella, seconded by Mr. Brinton, and passed 5-0.

New Application

Town of Washington/11 School Street/Special Permit: Section 4.4.9/Bathroom and Kitchen Addition to Pavilion

Mr. Martin read the 1/26/04 ZEO Report, which stated the application was incomplete and so would be submitted instead at the February meeting.

Other Business

Revision of the Zoning Regulations/Section 14: Site Plans

Mr. Oley, consultant, was not able to attend. Mr. Martin noted the 1/22/04 draft had been mailed out to all Members and would be reviewed page by page with Mr. Oley at the next meeting. He stated, too, that the work on Section 14 was important in terms of the Zoning Commission implementing key water quality protection recommendations in the 2004 Plan of Conservation and Development.

2004 Plan of Conservation and Development

Mr. Martin had prepared an outline for discussion, "Zoning Issues in Plan of Conservation and Development." (See attached.) It listed the three chapters of the POCD that included Zoning recommendations: Chapter 3, Preservation of Rural Character, Chapter 4, Enhance Village Centers, and Chapter 5, Guide Housing Development. A lengthy discussion ensued, which resulted in the following points being agreed upon:

Chapter 3 - Preservation of Rural Character

- **Protect Natural Resources:** Zoning had already adopted regulations to protect the water quality of Lake Waramaug and had begun work on the revision of Section 14, which would address non point pollution and erosion and sedimentation control guidelines.
- **Architectural Design:** The Commission did not want to become the arbitrator of good and bad taste and had gotten negative feedback about architectural review boards from Marbledale Business District property owners a few years ago. Instead, the Commission had implemented regulations for Marbledale, which offer incentives and encouragement for architecture in harmony with the surrounding area, as opposed to a mandate.

Chapter 4 - Enhance Village Centers

- **The Depot Business District:** The Commission agreed that it should wait until after the study of the Depot Business District is completed before considering any new regulations for this district.
- **The Green Residential District:** The Commission will focus on The Green District first because it is a number one priority in the POCD and because the Commission already completed work on the Marbledale District in 2001.

Chapter 5 - Guide Housing Development

- **Residential Development Flexibility:** Zoning had previously introduced development flexibility in Section 11 of the Regulations in response to revisions by the Planning Commission of the Subdivision Regulations. Planning will again review the Subdivision Regulations to determine whether any further changes are needed to implement the 2003 POCD. Thus, Zoning will again respond to Planning's subdivision work before evaluating whether any changes in development flexibility are needed
- **Residential Bulk Regulations:** It was thought that an evaluation of frontage, floor area ratio, and height regulations would be a high priority.

Mr. Martin asked the Commissioners to review the 2003 POCD and come prepared to discuss priorities at the next meeting. It was noted the Commission might hire a consultant to help with implementation of the Plan. It was also noted, the Plan contains recommendations, which Zoning will review thoroughly, and when done, may or may not choose to implement. Mr. Martin stated continuity would be important; that all Commissioners should keep up to date with Zoning's deliberations in the lengthy review process. He noted, too, that several informational meetings with the public might be required.

Mr. Martin noted he had attended a "Smart Growth" public hearing where he spoke against sections of the proposed legislation, which would take away autonomy from municipalities in the area of zoning. Mr. Sears also attended the hearing and said Mr. Martin had wisely presented examples of how the proposed language would adversely impact small towns such as Washington.

Communications

Members had reviewed the 1/21/04 draft letter to Senator Roraback. Mrs. Friedman will work on revised wording to clarify the last paragraph.

Enforcement

- **Washington Community Housing Trust/16 Church Street/Affordable Housing Units:** The 1/26/04 letter from Mr. Talbot was circulated. Mrs. Hill reported two sections of the existing building had been demolished that the Trust had originally hoped to partially save: the boiler/utility room, which was found to be in poor condition and the second floor of the east "wing" because the supporting columns were not in the required location. However, the original foundations are being used and the resulting footprint will be the same as that approved by the Zoning Commission.
- **Fish Vendor/Vinnie's Texaco, Washington Depot:** Mrs. Hill said she had received complaints that a fish vendor was operating with no zoning permit on the gas station property. It was the consensus that although it was in a trailer, this business must comply with the same regulations that all the other Depot businesses must comply with. Mrs. Hill was asked to send a letter to the property owner that a zoning permit is required.
- **Complaint Re: Residential Area:** A complaint had been received about "messy" properties along a road in Town. Mrs. Hill said she could deal with the properties where there were commercial vehicles and/or commercial operations under Sections 12.7.1 and 13.16 of the Regulations. She would have to further review the Regulations to see if anything could be done about the residential properties with only a residential use. Mr. Brinton offered to talk to one property owner. Mrs. Hill will send out letters to those with commercial vehicles or operations on their properties. The Commissioners will inspect the area prior to the next meeting when this matter will be taken up again.

MOTION: To adjourn the meeting. By Mrs. Friedman.

Mr. Martin adjourned the meeting at 9:12 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Zoning Enforcement Officer