

January 26, 2009

NOTE:

This is a revised version of the minutes originally posted February 5, 2009

Present: Gary Fitzherbert, Ralph Averill, David Owen, Valerie Friedman, Lou Abella

Alternates Present: Andy Shapiro, Harry Wyant

Absent: Mr. DuBois

Staff Present: Janet Hill, Shelley White

Others Present: Press, Mrs. Solomon, Mrs. Giampietro, Mr. Rogness, Mr. Klauer, Mr. Szymanski, Engineer, Atty. Strub, Atty. Fisher, Ms. Zinick, Mr. & Mrs. Moore, Mr. Smith, Mrs. Federer, Mrs. Benn, Mr. Talbot, Residents

Mr. Owen called the meeting to order at 7:32 pm.

PUBLIC HEARINGS

Seated: Mr. Owen, Ms. Friedman, Mr. Averill, Mr. Abella, Mr. Fitzherbert

Mark & Linda Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

Ms. Conlon submitted a written request for an extension of the Public Hearing to February 23, 2009. At this time, she feels the revisions to the plans should be complete.

Motion: To continue the Public Hearing to consider the Special Permit application submitted by Ms. Conlon for a detached accessory apartment at 6 Valley Road to February 23, 2009, by Mr. Owen, seconded by Ms. Friedman, passed 5-0

Moore/127 Blackville Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

Ms. Friedman read the legal notice published in Voices on 1/14/09 & 1/21/09. Mr. Owen read the list of documents in the file. He noted that the list of names and addresses of adjoining property owners and their certified mailing receipts for their notification of the hearing had not been submitted and read the Administrative Report submitted by Ms. Hill, dated 1/26/09. Ms. Zinick, agent, represented the applicants. She questioned Mr. Ajello's previous ZEO report, which said that the existing dwelling will be remodeled. She stated there are no plans to remodel the existing dwelling. Ms. Zinick submitted all certified mailing receipts, a list of surrounding property owners, and a map detailing where each neighbor is in relation to the Moore's property. She confirmed the proposed house would be 2456 sq. ft. and the existing house is 1040 sq. ft., which, she said, meets Zoning Regulation Section 12.5.2. Ms. Zinick and the Commission examined the Proposed Sanitary

Disposal System Plan & B-100a Plan prepared for Daniel & Sandra Moore by Arthur H. Howland & Associates, P.C. dated 10-15-08. They discussed the location of the existing and proposed dwelling in relation to the prominence of each. Mr. Owen noted the purpose of the accessory apartment regulation is to prevent property owners from placing two primary dwellings on a lot that is not subdividable, and therefore, the accessory apartment must be clearly subordinate to the main dwelling. Mr. Averill asked if the driveway meets the regulation in regards to having a common driveway. He noted the plans show a common cut and a common driveway for about 10-15 ft. Ms. Zinick presented the floor plan for the existing dwelling. The existing house, which would become the accessory apartment, is 41 ft. x 26 ft., just over 1000 sq. ft. The Commission and Ms. Zinick discussed the proposed house floor plans. Ms. Zinick noted that each dwelling has its own septic system. Mr. Shapiro asked the distance between the two dwellings. Mr. Averill estimated around 120 ft. between the dwellings. Mr. Owen asked if there were any more questions or comments from the public or commissioners. Ms. Friedman stated that she shares the concern with Mr. Averill regarding the driveway. Mr. Szymanski, Engineer, Arthur H. Howland & Associates, P.C. stated they could widen the area at the beginning of the driveway to make it more of a shared driveway. He noted that the existing house is very close to the road, there are existing stone walls that run along Blackville Road that they would like to maintain, and that moving the curb cut presents a problem with the sight line of the road as reasons for the proposed driveway location. Ms. Zinick noted the option is to widen the beginning of the driveway so it doesn't look like a shared curb cut. Mr. Szymanski stated the turning radius could be chamfered to accommodate large trucks.

8:03 pm.

Motion: To close the Public Hearing to consider the Special Permit application submitted by Mr. Moore for a detached accessory apartment at 127 Blackville Road, by Mr. Fitzherbert, seconded by Mr. Averill, passed 5-0.

REGULAR MEETING

Regular Business

Mr. Owen called the Regular Meeting to order at 8:05 pm.

Consideration of the Minutes

Corrections:

Page 1: Also Present: delete Mr. Carey(1)

Page 3: Pending Applications, Conlon: should read: "scheduled for January 26, 2009

Page 7: #2 Mr. Owen asked the commissioners to review for the next meeting the 'draft list of businesses': should read: draft list of uses

Motion: To accept the 12/15/08 Public Hearing – Regular Meeting Minutes as corrected, by Mr. Owen, seconded by Ms. Friedman, passed 5-0.

Pending Applications

Conlon/6 Valley Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment:

Public Hearing continued to February Meeting.

Moore/127 Blackville Road/Special Permit : Section 13.11.3/Detached Accessory Apartment:

Mr. Owen asked for any comments from the commissioners. He stated that he was okay with this application but worries that Zoning has received a number of applications that come close to what is not wanted regarding two primary structures on one lot. Ms. Friedman stated she understands this concern but it does meet the regulations. Motion: To approve the Special Permit application: Section 13.11.3 submitted by Moore for a detached accessory apartment at 127 Blackville Road, by Mr. Averill, seconded by Mr. Abella, passed 5-0.

New ApplicationsReid/287 New Milford Turnpike/Special Permit: Section 9.4.1.f/Physical Therapy, Yoga, and Nutrition Offices:

Ms. Hill stated the applicant would like the Commission not to schedule a Public Hearing at this time.

Sen/116 Shearer Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Ms. Hill noted there were two items missing from the application: 1) the signature of the owner on the application form and 2) a signed statement by the owner that he will reside on the premises for the duration of the permit. Mr. Owen listed the items that are included with the application. He stated that Ms. Hill recommends that a Public Hearing be scheduled. Mr. Owen asked if there were any questions from the commissioners. The hearing was scheduled for February 23, 2009 in the Land Use Meeting Room, Bryan Memorial Town Hall. Motion: To schedule a Public Hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Sen for a detached accessory apartment at 116 Shearer Rd. on February 23, 2009, by Mr. Owen, seconded by Ms. Friedman, passed 5-0.

Other BusinessPreliminary Discussion/Wykeham Rise, LLC./101 Wykeham Road /Affordable Housing:

Mr. Klauer, Mr. Szymanski, and Atty. Fisher were present to discuss the project in its conceptual stage and receive feedback from the Zoning Commission. Mr. Szymanski displayed a Conceptual Site Plan, dated 1/26/09, by Arthur Howland & Associates, P.C. He reminded the Commission that the existing septic system would support 69 bedrooms. He explained that the slabs of the existing dorm buildings would be transformed to accommodate underground parking for the units they serve. Mr. Szymanski stated they are planning for half the parking to be underground. The preliminary plans include the existing tennis courts, a play scape and sports court. At this point in the meeting, Mr. Szymanski requested feedback from the Commission. Mr. Owen stated it is important to the Town of Washington that the units are comparable and the State of Connecticut Affordable Housing Appeals Act not be used as a tool for a developer to get around zoning regulations. Ms. Friedman asked if the existing buildings are structurally sound. Mr. Szymanski confirmed that they are and they have a structural engineer looking at the site. Mr. Fitzherbert asked if the 3 dorms that are at least half underground would have another floor added to them and if the flat roof would be maintained. Mr. Szymanski confirmed there would be another floor added and the flat roof would be turned into a peak roof. Mr. Szymanski stated they are still working on this aspect of the plans. Mr. Fitzherbert asked for the length of the proposed building on top of the hill. Mr. Szymanski stated that his records show that it is 275 ft. Mr. Owen asked if the state fire code was considered. Atty. Fisher stated that under the Affordable Housing Statute 8-30(g) the project is in full compliance. Mr. Averill asked if the affordable units would be dispersed and asked who would be administering the affordable housing. Mr. Szymanski stated they would be

dispersed. Atty. Fisher stated that Mr. Klauer met with Mr. Hileman of the Housing Commission for his input. Atty. Fisher stated that they are not required to have a public hearing. Mr. Szymanski requested that the Commission go over the engineering aspect of the project with them before they get to the actual site plan application so that they may address any issues that may arise in a timely manner. Mr. Owen agreed to this and stated that he would like to have a public hearing, but would check with Atty. Zizka on this matter.

Petition to Amend Zoning Regulations/Section 11.7.1?Height of Principal Building and Structures in Historic Districts:

On behalf of the Historic District Commission, Mr. Talbot was present to discuss the petition to revise Section 11.7; "Maximum Building Height," proposing 35' as the maximum height for buildings and structures in all historic districts. He said this would revert to the pre January 1995 regulation as adopted February 26, 1990. The maximum height would be measured "to the level of the highest roof of the building or highest feature of the structure." He submitted his letter to the Commission dated January 20, 2009. The HDC has documented the heights of various houses within the Historic Districts to illustrate how existing buildings would or would not comply with the proposed regulation. He pointed out that there are some buildings at the Gunnery that would exceed the proposed maximum height limitations. The Commission and Mr. Talbot discussed the height of a building on a sloping site versus a flat site. Mr. Talbot said he would work on the definition of a sloping site. He feels it is important to the Town to regulate the height and have the back up of the Zoning regulations to help the Historic District Commission avoid legal issues. Mr. Talbot discussed the changes for Section 11.7.1 over the years from 1990 to the present. His letter includes the requested changes to the regulations as well as sketches of typical building heights in Historic Districts, copy of February 27 1989 Reg. 11.3, copy of February 26, 1990 Reg. 11.3, Copy of January 1 & December 1 1995 Reg. 11.3 and copy of December 17, 2007 Reg. 11.7 (all documents on file in Land Use Office). Mr. Owen stated that after reviewing these documents, the Commission could have a preliminary discussion at the February 23 meeting and then schedule the public hearing for the March 23, meeting. Mr. Talbot agreed.

Mr. Owen suggested the Commission move to Communications on the agenda

Communications

March 2008 Letter from Mr. Talbot re: Lot Coverage and Creation of Parcels:

Mr. Talbot expressed his concern that several years ago the then owners of 14 Old North Road had created a non conforming lot. He wanted to know how this had been allowed to happen and how the Commission would prevent it from happening again in the future. He expressed his dissatisfaction with the Town's land use regulations. It was noted that currently 6 and 14 Old North Road were still separate parcels, although owned by the same person. Mr. Owen read the Zoning Regulation 17.2, Nonconforming Lots, 2nd paragraph. Mr. Talbot stated he believed there should be more oversight of the first cut process. Ms. Hill stated that at the time the Commission had been advised that it could not prevent this, but as a result, first cut was added as an activity that would need a Zoning Permit and is now included in the Zoning Regulations. Mr. Talbot stated that he was still not clear about what had occurred, how it had been allowed, and how it would be prevented in the future. He asked for specific answers. Mr. Owen stated that the Commission had not yet received a definitive answer from the Attorney Zizka, but would raise the issue again with town counsel. Mr. Charles discussed some other instances where a property owner subdivided and had to remove or demolish structures on the property to produce a legal building lot. Mr. Talbot stated that his concern is how people are circumventing the law and that this should be prevented.

Other Business Continued

Revision of Zoning Regulations/Addition of Eating and Drinking Establishments to Uses Permitted by Special Permit in Woodville Business District (Public Hearing: 2/23/09):

A Public Hearing is scheduled for February 23, 2009 at 7:30 p.m. in the Land Use Meeting Room..

Revision of Zoning Regulations/1) Eating and Drinking Est. by Special Permit In all Business Districts 2) Addition of Definitions for Types of "Restaurants":

Mrs. Friedman had previously recommended that eating and drinking establishments be permitted by Special Permit in the business districts in which they are allowed to 1) make the Regulations consistent and 2) to give the Commission the authority to apply the Special Permit standards for each application. Mr. Shapiro agreed consideration of the Special Permit criteria would ensure that these establishments would be harmonious and would fit in with the surrounding neighborhood. Mr. Owen and Mr. Fitzherbert thought eating and drinking establishments should remain a use by right in the New Preston and Depot business districts and did not necessarily think it was important that the regulations governing this use be consistent throughout Town. The commission agreed that clearer definitions are important and will work on them in the future.

Revision of Zoning Regulations/Section 12.14/Noise Generating Equipment:

Mr. Owen presented the proposed revision, which was the result of discussions at previous meetings. Please see the attached text of proposed revisions. A public hearing was scheduled for March 23, 2009 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Revision of Zoning Regulations/Business-Institutional Signs in Residential Districts:

The proposed revisions by Mr. Owen, which had been circulated at the last meeting, were reviewed. The 1/26/09 administrative review by Mrs. Hill was noted and several changes to the draft were made. Please see the attached text of proposed revisions. A public hearing was scheduled for March 23, 2009 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Discussion of Possible Revisions to Zoning Regs. Re: Inns and Tourist Homes:

Discussion at previous meetings had focused on the need for a definition of "inn." Mrs. Friedman circulated a list of concerns that she also thought should be addressed such as whether inns should be permitted in commercial districts, whether they should be allowed only on state highways, whether the number of rooms should be limited, etc. Mr. Owen said he would not support any revision that would make the existing Mayflower Inn non conforming. Mr. Fitzherbert opposed setting arbitrary limits for inns now, which might interfere with their necessary economic growth in the future. He also thought it was too soon after the Wykeham Rise application for the Commission to discuss this issue. Mr. Averill agreed there was no immediate need to address inns. Mr. Owen recommended the commissioners reflect on this issue and said anyone who was interested could work on it on his own. Discussion Possible Revision of Section 6.3.2/Permitted Accessory Uses in R-3 District: Mr. Ajello had questioned whether this section should include stairs an exempted structure such as docks and floats. Mr. Owen asked that Mrs. Hill and Mr. Ajello work on revised text. This discussion is to be continued.

Discussion Possible Revision of Section 9.2.3/Permitted Uses in Marbledale Business District:

Review of the pending Reid/287 New Milford Turnpike application had raised the issue of whether professional offices should be required to have a Special Permit and public hearing if they were proposed in buildings already used commercially and there would be no changes to the exterior of the building or to the site plan. After a brief discussion, it was the consensus that under these circumstances, offices should be approved by regular zoning permit. A public hearing was scheduled for March 23, 2009 in the Land Use Meeting Room. Please see the

attached text of the proposed revision.

Privilege of the Floor Ms. Valerie Anderson asked that the Zoning Commission consider revising the Zoning Regulations to permit multifamily housing because there is a great need for it in Washington. She stated that under the Affordable Housing Appeals Act developers may ignore local regulations, but noted if the Town had regulations governing multifamily housing, it would have greater control over these developments. She suggested the Commission could put a time limit on the regulation or limit the number of units that could be constructed. She thought that it would be more beneficial to the Town to build 10 reasonably priced houses with 1 affordable home than to have another affordable housing project. After a brief discussion in which Mr. Owen stated that the Commission had already spent many months discussing this issue and that the construction of multifamily units would bring Washington further from the state mandated goals for affordable housing. When asked, none of the commissioners expressed a desire to work on this issue.

Enforcement

Mr. Owen read the ZEO Report.

Adjournment

Motion: To adjourn the Meeting, by Mr. Owen

Mr. Owen adjourned the meeting at 10:00 pm.

FILED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk