

October 20, 2008

Public Hearing

7:30 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Abella, Mr. Fitzherbert, Mrs. Friedman, Mr. Owen

MEMBER ABSENT: Mr. Averill

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wyant

ALTERNATE ABSENT: Mr. DuBois

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Klauer, Atty. Fisher, Mr. Szymanski, Mrs. Clark, Mr. Payne, Mr. Fowlkes, Mrs. Cooper, Mr./Mrs. Peacocke, Mrs. McDonald, Mr./Mrs. Solomon, Mrs. Wildman, Mr. Carey, Atty. Hill, Mr./Mrs. Federer, Mr. Miller, Mr./Mrs. Showalter, Mr. Long, Mr. Surnow, Dr./Mrs. Ewing, Atty. McTaggart, Mrs. Addicks, Mrs. Hardee, Mr. Pullaro, Mr. Goodin, Mr. Collum, Mrs. Peckerman, Mrs. Andersen, Mr. Solley, Mr. Picton, Mr. Charles, Mr. Hill, Mr. Doherty, Ms. Giampietro, Mrs. Greene, Mrs. Collum, Mr. Talbot, Ms. Forese, Mr. Parker, Mr. Rogness, Residents, Press

Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Sections 13.9 and 4.4.1/Inn/Continuation

Mr. Owen called the Public Hearing to order at 7:30 p.m. and seated Members Abella, Fitzherbert, Friedman, and Owen and Alternate Shapiro for Mr. Averill.

Mr. Owen read the list of documents submitted since the last meeting, noted the 10/20/08 email from Mrs. Caroe, and read the 10/20/08 letter to the Commission from Atty. Zizka regarding section 8-2h(a) of the state statutes, liability issues, and lot coverage.

Mr. Owen stated the Commission would focus on unaddressed issues including 1) the definition of inn, 2) traffic, 3) parking adequacy and design, and 4) lot coverage and asked the commissioners to add any other topics they thought it necessary to discuss. Mrs. Friedman added driveways. Mr. Shapiro said his question of how many trips per day the inn would generate had not been answered.

Mr. Owen read his statement, "What is an Inn?" attached as addendum A, which was followed by comments from the commissioners.

Mr. Fitzherbert said that at the time the Mayflower spa was approved, the Zoning Commission had ensured the Darlow property would be

separate from the Mayflower operation. He said he no problem with the Commission's approval then or now.

Mr. Shapiro said he would not question the Commission's decision made five years ago to approve the Mayflower spa, but said if it were reconsidered, he might have a different opinion of what an inn is. He thought it was currently coupled with Tourist Home for good reason, and that this suggested that inns were considered a smaller scale operation, but added there was not much of a legislative record to research.

Mrs. Friedman also said she would not second guess the Commission's Mayflower spa approval as at the time it had seemed like a modest request, but noted the Commission had required that it be accessed from Rt. 47 so there would be no access from Wykeham Road. She agreed with Mr. Shapiro that there seemed to be a reason that inns had been included in the same category as tourist homes, and not with hotels and motels.

Mr. Abella said he would not second guess past actions.

Mr. Fitzherbert did not recall any discussion about restricting the spa's access to only the state highway, but he did recall that the Commission had been concerned about how the use of that property could affect the surrounding neighbors.

Mrs. Friedman said again that she remembered that all access had to be through the main property so there was no access from Wykeham Road.

Mr. Owen stated that the Commission had feared that the inn and spa could be separated some time in the future and so required that they would always be a single operation. He also noted that the entire Mayflower spa file was included in the record of this application.

Mr. Owen asked the public for comments relating to the definition of inn.

Mrs. Peacocke noted that in a previous letter she had referred to definitions of inn and resort from a book of development definitions by Moskowitz and Lindbloom and she read the definitions from the updated 2004 addition for inn, resort, and hotel, and concluded the proposed inn more closely met the definition of hotel or resort than inn. She stated that in Washington, inns are permitted by Special Permit in this district, but spas, function rooms, retail outlets, restaurants, and bars open to the public are only permitted in business districts. To answer the question, can a spa be incorporated into an inn, she said that the grounds for a condition of approval must be found in the Regulations; you can't make a use permitted by attaching a condition to it. She argued that the proposed business was commercial, not institutional, and read the definition of institution from the 2004 edition by Moskowitz and Lindbloom. Lastly, she compared the Mayflower and other area inns with the proposed inn: 1) the Mayflower's buildings were all at least 200 ft. from property lines, 2) the Mayflower has 30 rooms (compared to the proposed 44) on more acres than the proposed inn, and 3) the average number of rooms in area inns is 15.25. Mrs. Friedman asked Mrs. Peacocke to submit her letter for the file.

Mrs. Peckerman stated her objection to the term, transient," just used by Mrs. Peacocke, but Mr. Owen explained that she had only been reading a definition as it had been written.

Mrs. Cooper stated that no matter what it was called, the proposed inn would be the largest in Litchfield County south of Lakeville and

would be urban in nature. She noted the proposed operation would be on a town road in a residential neighborhood.

Mr. Federer said anything could be called an inn, which is a marketing term, and that more important, a determination should be made about whether it would fit in with the context of the Town. He illustrated the size of the proposed main building by comparing it with the length of Bryan Plaza, saying it would be a continuous solid wall almost 50 ft. tall and 420 ft. long, running the entire length of the Plaza. He said the existing post office building was half the height of the proposed main building. He also noted the main building accounted for 19% of the total proposed lot coverage. He described the scale of the project as a mini Depot placed in the residential district. He thought the inn would have a negative impact on the area's rural character. He complained that the busiest time at the inn would be after normal business hours and since this was in the middle of the residential neighborhood, it would adversely impact property values. He said he hoped this provided a meaningful perspective regarding the scale of the project. He also noted that the travel guide that Mr. Owen had referred to in his statement on inns had stated that location was a critical function and that this one would be in the middle of the residential neighborhood.

Mr. Owen noted that the reference to location had referred to tennis facilities and golf courses.

Mrs. Andersen stated it was too late in the process for the Commission to take up the question of what is an inn. She said at the time the applicant had applied, inns were permitted on all roads and the definition of inn had been nebulous.

Atty. McTaggart represented Dr. and Mrs. Ewing. She pointed out that both maps in the Town's Plan of Conservation and Development showed this property as institutional, but said the proposed use was commercial. She said the Commission did not have to define every term in its Regulations, that institutional and commercial were defined in Webster's Dictionary, and that the Commission could consider normal uses and interpret these terms itself. She read Webster's definition of institution and stated it did not include a hotel/spa/restaurant operation. She noted that Section 4.4.10 of the Regulations lists institutional uses, that inns were not included in this section, and that there was a separate Section 4.4.1 for inns. She stated that zoning regulations throughout Ct. do not include for profit uses under the heading of institutional use. She then read Webster's definition of inn, which mentioned inns being in the country and/or along highways, and said the proposed use went beyond the scale of that definition. She noted that Washington coupled its inn and tourist home regulations and she thought one reason for this was to preserve the rural character of the community.

Mr. Shapiro said he appreciated Mrs. Andersen's remarks and asked Atty. McTaggart what she thought of the Commission's decision regarding the Mayflower spa and what it said about the working definition of inn, even though that definition is not written.

Atty. McTaggart responded that the Mayflower Inn has 500 feet of frontage on a state highway, that there was an old inn in a small private setting on the large property before the Mayflower, and that the Mayflower Inn is very rural per the Webster definition. She stated that Ct. inns are more "bed and breakfast like" and that the quaintness of the Mayflower and its location on a state highway made it a different situation.

Mr. Owen moved to the issue of traffic. He said the proposed inn differed from the Mayflower in that it would be in a more residential area. He said although he was concerned about traffic, he did not want imaginations to run wild. He noted he lives 350 ft. from the Mayflower entrance and said he had never observed much traffic there. He said he had notes from a conversation he had with Atty. Zizka who advised him that there were three traffic related issues for the Commission to consider: 1) Congestion: He said non experts can made judgments from

their personal experience about unwanted congestion, but these must be on the record before the hearing closes. 2) Sight distances: The Commission has received testimony from opposing engineers and must decide for itself when there is conflicting testimony whether the sight lines are adequate. 3) Carrying capacity: This matter would not be much of a concern in this case because it would take a lot of traffic to move the service rating up to the next category.

Mrs. Friedman asked whether the adequacy of the sight line distances pertained only to the entrance/exit for the inn or for all of the roads and driveways on the nearby rural road network.

Mr. Owen said he had not discussed this with Atty. Zizka.

Mr. Shapiro stated the sight distances and capacity of the entire road, not just the inn entrance, should be considered.

Mrs. Friedman said she often drives on Wykeham Road and found the inadequacy of the sight lines at all intersections to be dangerous and said this had not been addressed by the applicant's engineer. She submitted for the record photos she had taken of all of the sight lines at the intersections along Wykeham Road and said they illustrated how much could not be seen.

Mrs. Collum said she has lived across from the Wykeham property for 44 years and that an inn would have less traffic than a school, housing, or condos.

In response, Mrs. Friedman summarized the information in Mr. Fore's 10/10/08 letter, which concluded that a high end inn would generate more traffic than the previous school use had. She noted the letter was in the file for all to review.

Mr. Owen noted that he also lives near The Gunnery School, which is larger than the school on the Wykeham Road property, and he can often hear noises from The Gunnery, but not from the Mayflower Inn. He said he can hear noise from the Mayflower air conditioning/ventilation equipment, but that with revisions to the Zoning Regulations that have been implemented since its installation, this is not a problem that should occur at any new establishment.

Mr. Fitzherbert said he was most concerned with traffic congestion. He noted his experience as director of Glenholme School on Sabbaday Lane, the Town's largest employer, and said that the Town had improved the sight lines at Sabbaday and Wykeham and had widened Sabbaday down Gooseneck Hill to address dangerous road conditions for the school. He said the Town was very responsive, had not allowed unsafe road conditions in Devereux's case and would not for any other future use, and would take care of the sight line problems at the dangerous corner of Wykeham Road above the proposed entrance. He did not recall any accidents in this area and thought most of the dangerous situations were the result of excessive speed.

Mr. Shapiro said he had lived across from the Mayflower entrance, had been aware of headlight glare in the evening, and noted several accidents at that intersection, although he said they were due to the blind exit from Ferry Bridge Road. He said he had actually discussed with the Town and the Mayflower the possibility of installing a traffic light at this intersection.

Mr. Owen responded to remarks Atty. McTaggart made at the last session of the hearing that headlights from cars exiting the inn would

shine in the Ewing's bedroom windows on the NW corner of the Golf Course Road intersection. He said that the driveway had been there when the Ewing's bought their house and due to the topography and siting of the house, he did not see how headlights could shine in the bedroom windows.

Dr. Ewing stated that the bedroom faces Wykeham Road, high beam lights shine into the windows, the existing driveway for the school had been an entrance, not an exit, and it is a very dangerous turn onto Wykeham Road from Golf Course Road. He also stated that the school had not generated much traffic, although noise had echoed against the hill in the back.

Mrs. Giampietro stated that Devereux had generated many cars and that gradually the road had to be changed to accommodate them. She said the character of Wykeham Road should not be changed to accommodate the inn and that was the reason inns were to be located on state highways.

Mrs. Friedman asked if Wykeham Road was a scenic road. It is not.

Mr. Miller, a Wykeham Road resident, conducted his own traffic study and submitted his findings for the record. These included: 1) the proposed "resort" would generate 4 times the traffic that the Swiss Hospitality Inst. had, an additional 470 cars and trucks a day, every day of the year, 2) the resort would be marketed, so the traffic generated would be higher than the model predicted and there would be many more trips in and out because patrons would not just drive in and stay there; he estimated the "back and forth" traffic could be as high as 8 times that generated by the Swiss Hospitality Inst. and 9 times that of the purely residential area. In brief, he found traffic from the proposed inn would not be comparable to that generated by the school, the amount of traffic generated would not be in keeping with maintaining the character of the residential neighborhood, and the inn would be an "extraordinary" increase in the scale, proportion, and intensity of the use of the property, contrary to the requirements under the Special Permit section of the Regulations.

Atty. Hill asked if the applicant intended to comment on the traffic issue because if not, Mr. Goodin would address it now.

Mr. Szymanski stated he intended to answer all questions raised.

Ms. Forese did not see the relevance of comparing the proposed inn with the previous school as the next school on the property could be much larger and the roads made more dangerous like Whittlesey and Romford Roads. She also stated she saw no problem with the volume of traffic on Wykeham Road, although she thought speeding was a problem. She said she had worked at the Mayflower and did not think it possible that the proposed inn could generate 750 cars per day.

Mr. Doherty agreed speeding on Wykeham Road is a problem.

Mrs. Cooper said that sight lines are very dangerous on Wykeham Road and that it is the Commission's responsibility to ensure the safety of all who use the road and live in the area, not just inn patrons. She said she was also concerned that the rural road network would be lost if the inn required road improvements.

Mrs. Friedman noted that in addition to road intersections there are 29 driveways and 41 places of entrance and exit in this 1.2 mile stretch of

Wykeham Road.

Mrs. Solomon thought the inn would generate many more trips per day than anticipated by the applicant because patrons would travel in and out for school events if visiting Gunnery students, for example, and to see the sites and participate in local activities if traveling with family. She gave various scenarios. She noted all of these trips in and out would be from the inn's one access point and that the restaurant and bar would contribute to more intoxicated drivers on the road.

Mrs. Peacocke asked if she could make a remark about parking.

Mr. Owen asked her to wait until that topic was discussed.

Mr. Goodin, engineer for the Federers, stated the inn would not impact the level of service, but would impact the quality of service. He stated that the application did not meet all of today's traffic design standards. Problems cited included the following: 1) Intersection sight line distances: He stated that sight lines should be designed for 85th percentile speeds and submitted a police report, which, he stated, showed that the 85th percentile speed was higher than the 35 mph used by the applicant. He said that at 40 mph, 445 feet was required for a single unit car. 2) Single unit trucks need 100 ft. longer site lines than cars do and this was not considered. 3) The cutting of additional trees along Wykeham Road will be required to improve the sight lines and this has not been shown on the plans. 4) The sight line distances on the plans do not take into account that vehicles driving down the 10% grade on Wykeham Road will take longer to stop. 5) The road grade and angle of the driveway weren't taken into consideration when designing the turn into the driveway from Wykeham.

Mr. Fitzherbert asked Mr. Goodin to explain the concept of 85th percentile speeds. Mr. Goodin said engineering standards in Ct. require roadway and intersection designs for the 85th percentile speed and that he had calculated this speed was 40 mph, not 35 mph used by the applicant.

Mrs. Friedman asked if the design standards were legally required or only guidelines.

Mr. Goodin said they were not law, but were engineering design standards and he submitted written information, "Intersections At Grade," dated December 2003 and "Smart Survey Info," dated 10/20/08 for the file.

Mrs. Friedman asked if this was a problem that could be resolved by doing more work.

Mr. Goodin noted sight line improvement work was required on the north side of Wykeham and that it was an issue that had to be resolved.

Mr. Owen said the Commission would have to satisfy itself that safety issues were addressed.

Mr. Goodin said that even if the Board of Selectmen approves the improvements to Wykeham Road, the Zoning Commission must make its own decision regarding road safety.

Mrs. Friedman asked what the status was of the Board of Selectmen's review of the proposed improvements to Wykeham Road.

Mr. Solley, Board of Selectmen, stated there was a letter in the file indicating that it would approve the proposed sight line improvements to be paid for by the developer, but suggested that that lesser improvements resulting in less disturbance to Wykeham Road would be favored. He noted the Town of Washington only requires a 250 ft. sight line and that to achieve 390 ft. a fair amount of excavation would be required.

Mr. Fitzherbert asked which numbers the Selectmen had used to compute the sight lines.

Mr. Solley said they were determined prior to obtaining the information on speeds from the police dept.

Mrs. Friedman asked if the traffic designs took into consideration the increase in the number and size of vehicles that would use Wykeham during construction. She noted that the sight lines increase to 680 ft. for large vehicles.

Mr. Goodin replied that it did not because per traffic guides, the construction period was only temporary. He stated if designed properly, there should be sight lines of at least 445 ft. He said the Board of Selectmen have a different authority, but that the Zoning Regulations require the applicant to prove there will be safe ingress and egress, and this had not been done.

Mrs. Friedman said she understood Mr. Goodin to say that the Board of Selectmen could approve lesser standards, but the Zoning Commission could not.

Mr. Goodin discussed the problems associated with the proposed 16 ft. wide two way traffic driveway over the 17.5 ft. wide access, which is bounded on both sides by a stone barrier. He said this was not wide enough to accommodate both a car stopped waiting to exit and a car turning in from Wykeham, and therefore, cars would have to stop on Wykeham and wait to turn in. He said this situation was worse due to the 60 degree angle of the driveway at this intersection. He said that no more than a 15 degree angle is usually permitted. He noted that the Mayflower and proposed inn accesses had been compared by the applicant, but were not comparable because the Mayflower Inn driveway is 22.5 feet wide with no barriers at the entrance.

Mr. Szymanski, applicant's engineer, responded. 1) Regarding Mr. Fore's 10/10/08 letter, he said the Swiss Hospitality Inst. was a "finite use" compared to other previous uses of the property and he would review the letter further. 2) There were letters from the Fire Marshal and Emergency Services approving the plans. He said the upper driveway would be removed and grassed over, but would remain open for emergency access. 3) Regarding traffic volume, it had been shown at the last session of the hearing there would be a negligible increase over the volume when the school was in operation. 4) The level of service calculations had been redone and there was no change. 5) He reviewed accident data from the police department, which included 24 accidents since 2003 due to inclement weather, trying to avoid animals, and driver error, and concluded there was no pattern. The sight lines had not been a factor and he did not expect this would change. 6) To answer Mr. Shapiro's request for the estimated traffic volume increase assuming a 60% shared use, including staff and deliveries, and not including the use of the function room, he first stated that the issue of daily traffic is not considered relevant by traffic engineers for determining the impact on the surrounding road system. He noted there were currently 1250 trips per day on Wykeham Road and that the inn would generate 528 daily trips using the above parameters. 7) He agreed that high beams could be a problem for the Ewings across the street. 8) He stated the function room would not be open to the public during the high season and spa bookings would not be available to the general public when the inn was full.

Mrs. Friedman noted this was new information that had only been submitted by the applicant on Friday and she would discuss it under the topic of parking.

Mr. Szymanski thought an estimate of 435 trips per day would be more reasonable and compared this figure to the 520 trips and up that would be generated if the property was used as a school. 9) Mr. Szymanski stated he had researched the records and had found that no traffic studies had been required for the school and so argued the applicant was not receiving fair and equitable treatment because he had been asked to provide one as well as make sight line improvements on Wykeham Road. "Where does it end?" he asked.

Mrs. Friedman stated that no one expected the applicant to redesign Wykeham Road, but the Zoning Commission required information to deal with the Special Permit criteria.

Mr. Szymanski noted that all noise generating equipment would be located a minimum of 50 ft. from all property lines and that there would be no grill or bar on the hill near the pool.

Mr. Owen asked that he stay with topic of traffic.

Mr. Szymanski continued with his responses to the traffic concerns raised. 10) He stated his 85th percentile data differed from Mr. Goodin's because the police dept. machine had only been used on Wykeham for a few hours, well under the minimum 24 hours of data that is required to make this computation. He said the applicant's data had been obtained over 20 days. 11) The design standards for sight lines followed the Ct. Highway Transportation Design Manual. 12) Trees to be removed for sight line improvements were shown on Sheet RM.1 of the plans. The existing stone pillars were not seen as a hazard at this time. 13) The Board of Selectmen would like to limit the amount of excavation required to improve the sight lines along Wykeham; the cuts would vary from 6 ft. to 2.5 ft., but the Selectmen would like less. He noted there is an existing stonewall built in the Town right of way in front of the Mayer and Giampietro properties and said this wall would be photographed, disassembled, and reassembled 4 ft. further back from the road. 14) He had taken the 9% road grade into consideration. 15) Regarding the width of the entrance, he said it was sufficient for the required maneuverability and that flag men could be present to direct traffic during the construction process. 16) Also regarding driveway width, he said the Fire Marshal had approved the plans and that the Mayflower driveway width near the gate was 16 ft. Mrs. Friedman noted the Mayflower driveway had been existing and had not been approved by the Commission.

Mr. Szymanski said the Commission would not have permitted a more intensive use of the property if the driveway width had not been adequate.

At approximately 10:09 p.m. Mr. Owen called a brief recess. At 10:19 p.m. the Public Hearing was reconvened.

At this point Mr. Owen took up the issue of property values.

Mr. Hunter, appraiser for the applicant, submitted his letter dated 9/22/08 and explained in detail the criteria used for his report; neighborhood, physical, and ecological impacts. The report concluded that the "application for a special permit will neither adversely affect the property values of the adjacent residential properties nor the character or development of adjoining properties." He noted that the 8/08

report from the Landmark Appraisal Group concluded that the operation of an inn would result in a 25% decrease in the value of the surrounding properties, but that this determination should be disregarded because there was no evidence provided to prove it was true. He said his statement that in his opinion it would be “unlikely” that the inn would impact the adjoining properties was not equivalent to the Landmark Appraisal Group’s statement because he was familiar with this area.

Mrs. Friedman thought the Zoning Commission should use its best judgment because neither appraiser had sufficient data upon which to base his conclusion.

Mr. Hunter said there was no technique or data available to prove there would be an impact either way.

Mr. Rogness said it was common sense that there would be a negative impact on the value of the adjoining properties during construction and during the years it would take the landscape buffer to mature.

Mr. Hunter noted the current run down state of the property, said the buildings were past their economic life, and said any impacts to the value of adjoining properties during construction would be temporary.

Mr. Rogness asked what was meant by “temporary.”

Mr. Parker noted that Mr. Hunter’s analysis failed to consider the noise generated by the inn, because the “amphitheatre” increases the noise in the area. He noted that the weekend and evening business noise would negatively affect the surrounding properties and asked why that factor had not been included in the report.

Mrs. Friedman said she had questions concerning lot coverage, noting sheets of differing unsigned coverage data had been submitted and the coverage map she requested did not show all of the features proposed for the inn.

Atty. Hill stated it was not clear how the percentage of lot coverage had been computed and so asked that the Commission allow his client to pay Mr. Smith, a local surveyor, to take Arthur Howland and Assoc.’s latest plans and autocad files to do an independent coverage analysis. He said his client would pay the cost of this analysis up to \$1000. He noted if the coverage was over 10%, the Commission could not approve the application.

Mrs. Friedman said she had two sets of unsigned lot coverage figures; one at 9.99% and the other at 9.78% and that there were discrepancies between the numbers provided on these sheets. She thought it very important that an expert review the figures to ensure their accuracy.

Mr. Szymanski stated the lot coverage spread sheets were unsigned, but the lot coverage map had been certified.

Mr. Owen asked if all of the numbers were provided on the map.

Mr. Szymanski said they were in the upper left hand corner.

Atty. Hill said there was no raw data to use to verify the figures provided.

Atty. Fisher had no problem with Mr. Szymanski providing this information, but questioned how often the Commission asked that it be provided.

Mr. Owen stated that it had never been provided before.

Mrs. Friedman thought that if the application had continued before the ZBA, a survey map would have been required. She thought this kind of review should be required on a routine basis when dealing with lot coverage issues.

It was noted that this was the largest application considered by the Commission in recent years and the lot coverage was very close to the maximum permitted in the district. After a lengthy discussion between members of the Commission, Atty. Hill, Atty. Fisher, Atty. McTaggart, Mr. Szymanski, and Mr. Klauer it was agreed that the attorneys for the applicant and for the “opposition” would, on their own, send the necessary data to Mr. Smith for his review, but the Commission would not require it and would not set a precedent by requesting the independent review. It was also agreed that Mr. Smith’s analysis should be submitted as soon as possible so that the applicant and Commission would have time to review it before the next meeting.

Mr. Fitzherbert the flaw in the review process would show if the two sides argued about what should be included when calculating lot coverage. He thought the agreed upon review by Mr. Smith was “ridiculous.”

Atty. McTaggart said she did not see anything unusual about getting a review from another expert. She said it was routine to have certified plans reviewed, especially in this case, not because any lies were expected but because sometimes there are errors and in this case the lot coverage figure was so close to the maximum permitted. She also thought the 16 ft. wide accessways had been kept to the minimum to ensure the coverage would comply.

Mr. Owen stated that the Commission’s attorney had no problem with the lot coverage verification.

Mr. Talbot noted that Washington’s method of calculating lot coverage is specific and differs from most other towns and so he thought a review by an independent consultant was reasonable.

Mrs. Friedman noted that the proposed driveways were an important factor in the lot coverage calculations. She said she did not think that a 16 ft. wide driveway was adequate for two way traffic, especially since parking was proposed along its sides. She noted that the letter from the Fire Marshal approving the project did not address the driveway width and that 18 ft. wide driveways had been required in the past for less intensive uses such as The Gunnery nature classroom, 13 dwelling units in Myfield, the 16 Church Street affordable housing units, Rumsey Hall School’s hockey rink, and the Mayflower Inn spa. She said the original Mayflower Inn did not have 18 ft. wide driveways, but the new sections of driveway to service the spa were 18 ft. wide. She asked several questions including: 1) Considering the bridge over Kirby Brook, is the proposed width of the driveway entrance adequate? 2) Are 12 to 16 ft. wide driveways adequate with parking on one or both sides, for service vehicles, considering curves and gradients? 3) Are turning radii adequate given curves and gradients, especially at the first right turn? 4) Is the cul de sac for driveway #2 adequate for emergency vehicles to turn around? 5) Given there is no turnaround for the 14 ft. wide service drive, what happens when several trucks need to back up? 6) Do all driveway grades meet the 10% maximum grade requirement? She thought these were important issues that should be referred to a consultant for review.

Mr. Ajello said that the Fire Marshal's review had included turning radii and two way traffic and had addressed all of the issues raised.

Mrs. Federer asked if Mr. Etherington had reviewed the latest plan. Mrs. Friedman said he had.

Mr. Shapiro said Mr. Etherington should specifically address the adequacy of the proposed driveway widths in his report. Mr. Owen thought this was a reasonable request and said the public hearing would be continued so this review could be received.

Mr. Fitzherbert explained how the Fire Dept. would draw up written plans to handle any emergency that might arise at the inn, and that these would be tested and revised if found to have flaws. He also said that the emergency vehicles could use the driveway shoulders to pass if necessary.

Mr. Shapiro noted the Commission has specific criteria relative to fire protection and safety and so a clear finding must be made that this requirement is met. He read Section 13.1.B.3.

Mrs. Friedman said, again, that The Gunnery's infrequently used classroom had required an 18 ft. wide driveway and so to be consistent the Fire Marshal should require the same width for this more intensive use. Mr. Fitzherbert responded that per the state fire code, local fire marshals have leeway to make their own interpretations. Mrs. Friedman did not think this should be acceptable to the Commission.

Mrs. Peacocke thought the driveway widths had been paired down without regard for safety and instead the emergency services staff was being depended on to cope as best it could.

Mrs. Friedman asked how the Commission would get an answer to whether the entrance was wide enough to accommodate two way traffic. Mr. Owen said the Commission had heard from both engineers and would decide based on their reports.

Atty. Fisher submitted a letter to the Commission requesting an extension of the hearing to 10/27/08.

The next topic that was discussed was parking.

Mrs. Friedman noted that the issues of driveway width, parking, and lot coverage were related.

Mrs. Friedman pointed out that the upper cottages were up to 450 ft. from the nearest driveway. She questioned whether this was adequate access for patrons during inclement weather and how contractors would service these units. She thought whether the access was paved or not, that eventually both patrons and contractors would drive over it and that just because a feature was not shown on a map, it did not mean that it shouldn't be counted as coverage. Mr. Klauer responded that there would be staff to help the patrons to these units, the access was flat, he had stayed at places with longer walks, and that patrons would make their own decisions regarding whether they wanted remoteness or accessibility. Mr. Fitzherbert did not think this was a matter to be addressed by the Zoning Commission.

Mr. Talbot again said he thought the definition of lot coverage was a problem. He suggested that the Commission clarify why it has lot coverage regulations, why features count or don't count as coverage, and why 10% was set as the maximum. Mr. Rogness asked what material would be used for the walkway to the upper units and how it would be maintained. Mr. Szymanski said it would have pervious

pavers that allow infiltration as detailed in the landscaping plan.

Mr. Goodin noted that the latest plans showed pea stone walkways in some places and porous pavement in others. Mr. Szymanski said he would re-label the pea stone walks. Mr. Ajello said pervious surfaced walkways of any kind were not included as coverage. Mr. Owen noted, however, that these surfaces were counted as coverage if used for driveways.

Atty. Hill stated that in order to keep under the 10% maximum coverage allowed the applicant had to make the driveways as narrow as possible and provide as little parking as possible. He gave specific examples of what he considered to be parking deficiencies including inadequate spaces for the function room, which the applicant said would never hold more than 50 people, but which the Fire Marshal and Building Official said could hold up to 295.

Atty. Hill questioned how the applicant's self imposed limit of 50 could be enforced.

Mr. Owen explained the parking regulations did not require that spaces be provided for the maximum use; the Commission was more concerned that the smallest number of spaces needed for adequate service be provided. He also said that limiting the number of spaces would limit the number of users.

Atty. Hill stated there would be parking along the sides of the 16 ft. wide driveways because sufficient parking spaces were not provided.

Mrs. Friedman compared the proposed parking spaces to those at the Mayflower, which, she said, has valet service and stacked parking. She said the Fire Marshal and Building Official said the capacity of the function room was 137 seated and 295 standing and the Health Dept. said it had no way to control its capacity. The applicant had stated it would be limited to 50 and would only be used by guests in the high season.

Regarding parking in general, Mrs. Friedman agreed that there should be no more parking spaces than necessary. She pointed out, however, that there were only 60 spaces proposed near the main building to serve the 60 employees the applicant said there would be, the 50 person function room, the 14 bedroom units in the main building, the 78 person capacity restaurant/bar (she said the Health Dept. listed this capacity at 92), the 38 people using the spa and fitness center, and any staff shift overlap. She said the proposed plan had zero spaces allocated for the function room and restaurant/bar and no place available for the doubling up of parking along the driveways. She thought the parking needs had purposely been understated. She also thought comparisons to parking at the Mayflower were unfair because its tea room was never open to the public and it had no parking along driveways. She asked the Zoning Commission to use logic and common sense when considering the proposed parking plan.

Atty. Fisher voiced his concern that Mrs. Friedman had demonstrated her outright opposition to the project. Mrs. Friedman responded that she was trying to get reasonable answers to her questions.

Atty. Fisher stated the applicant was applying for a Special Permit and would have to comply with all of the conditions of that permit. He said the number of cars on site would be very noticeable, that neighbors could complain if there was a problem, and the enforcement officer could then investigate. Mrs. Friedman said the permit would be granted in perpetuity and the Commission did not have the manpower to enforce this. Mr. Fitzherbert noted that the Town's enforcement limitations were not the applicant's problem. Mr. Owen stated the

Commission has enforcement procedures.

Atty. Hill noted material submitted by the applicant limited the number of employees, required its employees to carpool, and restricted deliveries to 8:00 a.m. – noon on Monday through Saturday. He asked how the Commission would be able to enforce this. He advised the commissioners that if something proposed did not make sense, they did not have to accept it.

Use of the pool and the applicant's proposal to restrict families with children from the inn from all but three weekends in the summer was briefly discussed.

Mr. Federer asked that the applicant state in writing that there will be no bar or grill located at the pool.

Mr. Owen read the 10/20/08 letter requesting an extension from Atty. Fisher.

MOTION: To continue the public hearing to consider the Special Permit application: Sections 13.9 and 4.4.1 submitted by Wykeham Rise, LLC. for an inn at 101 Wykeham Road to Monday, October 27, 2008 immediately following the two public hearings scheduled to begin at 7:30 p.m. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

At 12:05 p.m. Mr. Owen continued the hearing to Monday, October 27, 2008 in the Main Hall, Bryan Memorial Town Hall.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Coordinator