

## October 22, 2007

MEMBERS PRESENT: Mr. Averill, Mrs. Friedman, Mr. Owen

MEMBERS ABSENT: Mr. Abella, Mr. Fitzherbert

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wadelton

ALTERNATE ABSENT: Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Carey, Mr. Allen, Mr. Smith, Mr. Weaver, Ms. Habib, Mr. Farmen, Atty. Fisher, Mr. Worcester, Mr. Fowlkes, Mr. Gitterman, Mr. Papsin, Press

### PUBLIC HEARING

#### **Stiteler-Giddens/262 West Shore Road/Special Permit: Section 6.4.9/Boathouse/Con't.**

Mr. Owen reconvened the public hearing at 7:31 p.m. and seated Members Averill, Friedman, and Owen and Alternates Shapiro and Wadelton for Mr. Abella and Mr. Fitzherbert. He then advised the Commission that the application had been withdrawn.

MOTION: To close the public hearing to consider the Special Permit application: Section 6.4.9 submitted by Stitler-Giddens for a boathouse at 262 West Shore Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Mr. Owen closed the hearing at 7:33 p.m.

This public hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

### REGULAR MEETING

Mr. Owen called the Meeting to order and seated Members Averill, Friedman, and Owen and Alternates Shapiro and Wadelton for Mr. Abella and Mr. Fitzherbert.

#### Consideration of the Minutes

MOTION: To accept the 9/24/07 Public Hearing - Regular Meeting minutes as written. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

There were no pending applications.

## New Application

### **Devereux Glenholme School/81 Sabbaday Lane/Special Permit: Section 4.4.10/Theatre Addition**

Mr. Worcester, architect, represented the applicant. Mr. Owen read the 10/22/07 ZEO Report, which noted the proposal had been submitted to the State Health Dept., it was not in an area regulated by the Inland Wetlands Commission, and the theatre would be an addition to the existing maintenance building on the school property. Mr. Ajello read the 10/22/07 sheet, "Building Description," which specified the theatre would be used solely by students as a part of their educational experience, would have 312 seats, would include other areas such as control room, back stage, lobby, and gallery space, and would possibly be used for other functions such as art display, school ceremonies, and fundraising. A public hearing was scheduled for Monday, November 26, 2007 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

## Other Business

**Preliminary Discussion/Myfield, LLC./Possible Modifications to Approved Plan:** Mr. Gitterman noted that the goal of this project was to provide improved residential housing opportunities for Washington residents and said that the creative adjustments in design and aesthetics, which would be discussed tonight, were the result of input from concerned residents and neighbors. Mr. Fowlkes presented two colored sketches of the proposed units; one as they would appear from Mygatt Road and the other a comprehensive end to end view. He noted 13 structures with one dwelling unit each had been approved in the original application. However, although the total number of structures and total number of bedrooms would not change, this preliminary proposal increased the number of dwelling units to 16. He noted some of the houses would be turned sideways, others attached or repositioned, and more trees would be planted to vary the look of the complex. Also, different types of units would be offered; "apartments," condos, and stand alone houses. All would have the same square footage. Mr. Fowlkes noted that there would be affordable and market rate units in each of the different types of units. The map, "Site Layout," revised to 10/22/07 was reviewed. He described the various unit types and pointed out their locations. Mr. Gitterman noted the units would be farther from the wetlands than the units originally approved, but that their roof area would be slightly larger. He said he had consulted with an engineer who had advised him this would not create a drainage problem as the increase was insignificant. Prices and the definition of "moderate" cost housing were briefly discussed. Mr. Gitterman said he would research the definition and provide a list of price differences for the Commission. He noted that none of the units would be rentals. Mr. Owen advised the owners that the proposal would require a new application and public hearing because it was not just a simple modification and he strongly recommended that they study the comments made throughout the first application process as the same issues would be raised by the Commission for any new application. Comparability was discussed at length. Mr. Owen said very specific information would be required in the new application including a floor plan for each unit. He said significant differences in the units such as floor and partition configurations, square footage, windows, and levels of exterior finishes would be reviewed by the Commission to ensure the units were comparable under the State Affordable Housing Appeals Act. Mr. Gitterman said it was never his intent to build identical units. He proposed to offer standard units of uniform quality and to let the buyers choose how to finish the interiors prior to the manufacture of each unit. Mr. Owen said there would be a problem if the exteriors of the affordable units were distinguishable from those of the market rate units no matter if this was due to design or to the buyer's choice. He said the units would not have to be identical, but must be comparable. He read the definitions of "comparable" and "equivalent" from the

Oxford Dictionary. Mr. Fowlkes asked if he was saying that no diversity was allowed. Mr. Owen said diversity could be provided within each type of unit. It was noted the two houses already constructed were not the identical units that the applicants had applied for and so they did not satisfy the terms of the current permit.

### **Preliminary Discussion/Rumsey Hall School/184 Romford Road/ Construction of Two Dormitories and Hockey Rink**

Mr. Owen read the 10/22/07 ZEO Report. Mr. Smith, surveyor, Mr. Weaver, architect, Ms. Habib, Business Manager, and Mr. Farnen, Headmaster, presented preliminary plans, "Illustrative Master Plan," by the SLAM Collaborative, dated 5/15/2000, "Master Plan Update," by Michael Rosenfeld Architects, and "Overall Site Plan," by Smith and Co., dated 10/22/07. Mr. Farnen noted that the dorms and rink had always been included in the school's long range plans and their construction would consolidate the campus and bring together all the students and faculty currently housed off site. Floor plans, a rendering of the dorms, and elevations of the proposed rink were reviewed. The two dorms would be identical and would house faculty as well as students. The rink would be 200' X 85'; a standard, no frills structure. Mr. Owen asked if the new construction would necessitate improvements to the existing driveway. Mr. Farnen said the driveway was widened and drainage improvements installed in conjunction with the newly constructed gymnasium, although a sidewalk would be included in this project. Mr. Owen noted that school campuses are the source of some of the most egregious lighting in Town and he recommended that Mr. Weaver consult the Zoning Regulations regarding outdoor lighting in residential districts. Mr. Farnen noted there were no plans to increase the student enrollment. Mr. Farnen asked if the cutting of trees could begin now without prejudicing the Special Permit application. Mr. Owen noted clearing was not regulated by the Zoning Commission, although excavation was. Mr. Ajello pointed out that excavation of the stumps would disturb the soil and so would require an erosion and sedimentation control plan and he recommended a review by the Conservation Commission, which might point out specimen trees or critical habitats that should be preserved. He also noted several neighbors had complained about the clearing done for the gymnasium. He did not think it was a good policy for the Zoning Commission to allow clearing prior to permit approval. Mr. Owen read Section 13.8 of the Regulations, which did not include the removal of surplus material from a construction site in the definition of "excavation." Mr. Smith stated that no material would be removed from the site and said he would submit an erosion control plan because an area larger than half an acre would be disturbed. Ms. Habib said it was crucial to get the clearing done now so that the project deadline to open the dorms in Sept. 2008 and the rink for the 2008 hockey season could be met. Mr. Ajello said this work could be quickly done in the winter months. It was agreed that Rumsey would submit an application for the November 26th meeting and that a public hearing would most likely be scheduled for December 17, 2007. It was noted the application should address outdoor lighting, drainage, septic approval, and erosion controls. Mr. Ajello thought there would be no wetlands issues.

### **Preliminary Discussion/Possible Revision of the Regulations to Permit Inns on Town Roads as Well as State Highways**

Atty. Fisher explained he has a client who owns land on a Town road and wants to operate a country inn on the property. He said in reading Section 13.9 of the Zoning Regulations, it was not clear to him whether inns were required to be on state highways or not. Sections 13.9 -13.9.4 were reviewed. Although several of the commissioners noted the wording was "interesting," Mr. Owen stated the Regulations did not limit inns to state roads, but required 500 feet of frontage if they were located on a state highway. Mrs. Friedman was concerned that the Regulations did not include definitions for "inn" and "tourist home" so she did not think it was exactly clear what uses were permitted in the R-1 District. Mr. Owen read these definitions from **The New Illustrated Book of Development Definitions** by Moskowitz and Lindbloom. Atty. Fisher suggested that the state health code distinguishes between inns, tourist homes, and bed and breakfast operations. It was noted all three of these uses were by Special Permit in the R-1 District and that no signs would be permitted in that district. Although she thought

operating inns on properties that had been used previously for commercial or institutional uses might be appropriate, Mrs. Friedman expressed her concern about whether these were suitable uses to be permitted throughout the R-1 District. Mr. Owen invited her to work on revisions or clarifications to the Regulations.

**Revision of the Zoning Regulations/Stone Walls and Fences:** Mrs. Friedman noted the Commission had not decided whether or how to address pillars and gates, but said she was satisfied with the proposed language discussed at the last meeting. It was noted a guideline section for walls and fences is included in the proposed revisions. Mr. Owen noted that depending on the comments received at the public hearing the Commission may want to edit the definitions of semi open fences to address fences placed on top of stone walls.

## Communications

Mr. Wadelton reported briefly on the NW Ct. COG seminar he recently attended regarding cell towers. He noted local zoning commissions have no jurisdiction over cell towers on the ground, but do over telecommunications facilities located in existing structures such as church steeples. He has a tape of the seminar for anyone interested in learning more.

Mr. Ajello asked if a commercial kitchen used to prepare foods to sell in another building on the same property as well as off site would be a permitted use in the New Preston Business District. It was the consensus this type of use would be covered under "retail business" and so would be permitted.

It was noted that the Planning Commission had sent a memo requesting an update on how the Zoning Commission was progressing with the implementation of the recommendations in the 2003 Plan of Conservation and Development and the Depot Study. Mr. Owen noted he had consulted with Atty. Zizka who had informed him that the Zoning Commission does not report to the Planning Commission and that the Zoning Commission is not required to implement the Plan. He said he would call the Planning chairman to tell her he would send Zoning's annual report and that all Zoning minutes were available on the Town website. Mrs. Hill noted that even though it was not required to do so, the Zoning Commission had already implemented many of the recommendations in the 2003 Plan. Mr. Owen stated the 2003 Plan was and continues to be a useful document to the Zoning Commission. Mr. Owen noted he would attend the next Planning Commission meeting to discuss this matter further with that commission.

Mr. Owen reported that the First Selectman had asked him what Zoning's rationale was behind its proposal to limit properties to only one accessory apartment. Mr. Owen responded that Zoning was upholding soil based zoning as had been endorsed in the Plan of Conservation and Development.

## Enforcement

**Moore/25 Litchfield Turnpike:** Mrs. Friedman noted this matter has been unresolved for more than a year. It was the consensus that Mr. Ajello should write to Mr. Moore to inform him that he will be fined if he does not apply for the permits required for both a structure and for shop and storage use by contractors and building tradesmen by the next Commission meeting. It was noted that Mr. Moore was sent a notice of violation last year and that fines may be as high as \$150 per day for ongoing violations.

**MOTION:** To instruct the EO to deliver a warning to Mr. Moore/25 Litchfield Turnpike that the Zoning Commission will levy a fine if he gives no satisfactory reply by the next Zoning Commission meeting on November 26, 2007. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

**Pappa Joe's/New Milford Turnpike:** It was noted that Pappa Joe's has put up signs along New Milford Turnpike, none of which have permits. Mr. Ajello said he had previously removed some of these signs, but would discuss the matter again with Mr. Martin.

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

Mr. Owen adjourned the meeting at 9:18 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator