

October 23, 2006

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

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATES PRESENT: Mr. Abella, Mr. Shapiro

ALTERNATE ABSENT: Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Arturi, Mr. Frank, Dr. and Mrs. Altorelli

PUBLIC HEARINGS

Revision of the Zoning Regulations/Proposed Section 4.4.17/ Request by the Washington Club to allow "Accessory Structures Associated with the Operation of an Existing Golf Course" in the R-1 District by Special Permit

Mr. Owen called the public hearing to order at 7:30 p.m. and seated Members Averill, Friedman, Martin, and Owen and Alternate Abella for Mr. Fitzherbert. Mr. Martin recused himself because he is a member of the Washington Club. Alternate Shapiro was seated. Mrs. Friedman read the legal notice published in **Voices** on 10/11 and 10/18/06. Mr. Owen read the list of documents in the file.

Mr. Arturi, president of the Washington Club, spoke on behalf of the proposed revision, noting that since the Club is a non conforming use in the R-1 District, every change now requires a variance. He said variance applications were not always appropriate for the Club since there was not usually a hardship involved. He also thought the Special Permit process would be more suited because it would take into consideration the effect the proposal would have on the surrounding residential neighborhood.

No one from the public spoke for or against the petition.

Mrs. Hill noted the proposed revisions had to be referred to the Planning Commission before the hearing could be closed.

MOTION: To continue the public hearing to consider revision of the Washington Zoning Regulations: addition of Section 4.4.17 to permit by Special Permit in the R-1 District, accessory structures associated with the operation of an existing golf course to 7:30 p.m. on 11/27/06 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

Mr. Owen continued the hearing to November 27, 2006 at 7:30 p.m.

Mr. Martin was reseated.

Revision of the Zoning Regulations/Section 6.6/Proposed Deletion of "Rowing Shell Dock"

Mr. Owen called the hearing to order. Mrs. Friedman read the legal notice published in **Voices** on 10/11 and 10/18/06. Mr. Owen read the list of all the documents in the file and Mr. McGuinness's 9/15/06 comments on behalf of the NW Ct. Council of Governments and Mrs. Mestre's 9/15/06 letter to the Commission against the revision.

Mr. Frank, president of the Lake Waramaug Association, spoke on behalf of the Assn. and read the 9/20/06 letter from Mrs. Feldman, who was also against the proposed revision. He noted when comprehensive Lake Waramaug District regulations had been adopted in 2003, the rowing shell dock had been recognized as a necessary facility. He thought human powered vessels should be encouraged on the lake and so suggested that if the problem was the ability to attach a rowing shell dock to a regular dock, the solution was not to eliminate them, but to specify that they may not be attached to any other dock.

Mr. Owen asked if the definition of rowing shell dock could be narrowed by including a height specification. He thought it might be OK to continue to permit them if the definition made it impossible to use them for anything else. Mr. Averill noted that even if the term, rowing shell dock, was deleted, they could still be installed under the more general term, dock.

Mr. Ajello asked why rowing shell docks could not be attached to regular docks. Mr. Frank explained the rowing shells must be stabilized by extending the oars out; one side out over the low dock, and also stated he did not want docks to extend farther than 300 ft. into the lake.

Mr. Martin said the Commission's work with the Lake Waramaug Assn. in 2003 had been environmentally driven to draft regulations to protect the shoreline. He noted the property owners along the shore had been very cooperative in accepting the revised regulations. He then read a section of the brochure, "The Dock Primer," which had been consulted for guidance regarding how to construct docks that would not create massive dark spots where the sun would be blocked from the water and so would be harmful to the environment. Mrs. Friedman agreed the Commission should encourage the environmentally sensitive use of the lake, noting it would be better to have more rowing shells than motor boats.

Mr. Owen asked if a workable solution would be to retain the 360 sq. ft. maximum size, but to divide it between a regular dock and a rowing shell dock if a property owner wants both. It was noted rowing shell docks were approx. 4' X 25'. Mr. Martin thought the two maximum size requirements should be separate; 360 sq. ft. for a dock plus 100 sq. ft. for a rowing shell dock. Mr. Ajello, on the other hand, thought if the square footage requirement was combined, it would help to limit the size of the conventional docks.

Mr. Owen noted the public hearing would be continued and asked Mr. Frank to research what was the proper height above the water line and what an appropriate width would be for a rowing shell dock. Mr. Frank agreed to do so.

The commissioners agreed for environmental reasons that rowing shell docks should not be attached to regular docks and that revision should be adopted. The second revision needed was to define the rowing shell docks in a manner that would make it impossible to use them for anything else. Work on specific language will continue at the next meeting.

MOTION: To continue the public hearing to consider revision of the Washington Zoning Regulations: deletion of "rowing shell dock"

throughout Section 6.6 to 11/27/06 in the Land Use Meeting Room, Bryan Memorial Town Hall - hearings begin at 7:30 p.m., this is the second hearing. By Mrs. Friedman, seconded by Mr. Martin, and passed 5-0.

Mr. Owen continued the public hearing to 11/27/06; the second hearing to be held that evening.

Revision of the Zoning Regulations/Section 6.6.10/Materials Required for Construction of Docks

Mr. Owen opened the public hearing and Mrs. Friedman read the legal notice published in **Voices** on 10/11 and 10/18/06. Mr. Owen noted the list of documents in the file and referred specifically to the 9/15/06 comments from Mr. McGuinness of the NW Ct. COG, which he had read at the previous hearing and the 9/25/06 email to Mr. Ajello from Mr. Frank.

Mr. Frank read his 9/25/06 comments and his suggested language, "Dock construction material shall be environmentally safe. Wood materials shall be naturally rot resistant such as decay resistant heartwood of redwood, black locust, cedar, or other similar lumbers. ACQ treated wood is permitted, but natural woods are preferred."

Mr. Owen noted rust resistant hardware was already required and that the reference to CCA treated wood had to be updated since it was no longer sold.

There was a lengthy discussion regarding the use of pressure treated wood and what the specific construction material requirements should be. It was noted there could be a different requirement for the main frame versus the decking and that any proposed language should not rule out the use of aluminum for docks.

The commissioners decided on the following revisions: 1) the reference to CCA treated wood would be deleted, 2) a provision that wood decking materials shall be naturally rot resistant will be added, and 3) stairs and railings on the shore line should also be made of naturally rot resistant materials.

MOTION: To continue the public hearing to consider revision of the Washington Zoning Regulations: Section 6.6.10 re: materials permitted for dock construction to 11/27/06 in the Land Use Meeting Room, Bryan Memorial Town Hall - hearings begin at 7:30 p.m., this is the third hearing. By Mrs. Friedman, seconded by Mr. Abella, and passed 5-0.

Mr. Owen continued the public hearing to the third hearing scheduled on 11/27/06 to allow an opportunity for minor editing and so that the proposed language could be referred to the Planning Commission for review.

Revision of the Zoning Regulations/Section 6.4.6/Clarification Re: What Constitutes a Fence

Mr. Owen called the public hearing to order and Mrs. Friedman read the legal notice published in **Voices** on 10/11 and 10/18/06. Mr. Owen read the list of documents in the file and read the section of Mr. McGuinness's 9/15/06 memo, which pertained to fences. Mr. McGuinness objected to the use of the phrase, "tightly spaced," as it was too subjective. Mr. Owen thought tightly spaced rows of trees were already included in the current 6.4.6 as it applies to all fences and barriers listed and also to "other visual barriers."

Mr. Ajello explained the proposed revision was the result of his question, when does a row of trees become a fence? He asked the Commission for an interpretation so that any future decision he would make would be less judgmental.

Mr. Shapiro suggested the wording be changed to, "...hedges or tightly spaced rows of bushes or trees."

Mr. Frank and Mrs. Friedman were concerned about how trees and bushes might meet the Regulations when planted, but then grow to be a problem. Mr. Frank asked how the requirements would be enforced 30 years later when the trees had developed into a barrier.

Mr. Averill suggested that the following wording be added; "Vegetation shall be maintained in a way that does not obstruct the view."

The term, "unduly obscured" was briefly discussed. The current Section 6.4.6 states in part that no Special Permit may be issued for a fence or other barrier if it will unduly obscure the view of the lake. It was the general opinion of the Commission that the EO did not have to be concerned about the interpretation of this term, because it would be the Commission that would make the decision under the Special Permit process.

It was the consensus that the proposed language should be revised to: "Fences, walls, earthen berms, and hedges, including hedgelike rows of tightly spaced trees and bushes that have the visual effect of hedges, and other visual barriers...."

MOTION: To continue the public hearing to consider revision of the Washington Zoning Regulations: Section 6.4.6 re: what constitutes a fence to 11/27/06 in the Land Use Meeting Room, Bryan Memorial Town Hall - hearing begin at 7:30 p.m., this is the fourth hearing. By Mrs. Friedman, seconded by Mr. Abella, and passed 5-0.

Mr. Owen continued the public hearing so that the proposed revision could be forwarded to the Planning Commission for review.

Revision of the Zoning Regulations: Section 21.1.28/Definition of Fence

Mr. Owen called the public hearing to order and Mrs. Friedman read the legal notice published in **Voices** on 10/11 and 10/18/06. He noted the documents in the file.

Mr. Owen explained he had taken the proposed definition from the book, **The New Illustrated Book of Development Definitions**, by Moskowitz and Lindbloom. He said this would clear up the ambiguities of the current definition. He read both the current definition and the proposed definition.

The Commissioners were satisfied with the proposed language.

There were no comments from the public.

MOTION: To continue the public hearing to consider revision of the Washington Zoning Regulations: Section 21.1.28 re: definition of fence to 11/27/06 in the Land Use Meeting Room, Bryan Memorial Town Hall - hearings begin at 7:30 p.m., this is the fifth hearing. By Mr. Abella, seconded by Mrs. Friedman, and passed 5-0.

At 8:44 p.m. Mr. Owen continued the public hearing to

11/27/06 in order to receive a report from the Planning Commission.

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. Owen called the meeting to order at 8:45 p.m. and seated Members Averill, Friedman, Martin, and Owen and Alternate Abella for Mr. Fitzherbert.

Consideration of the Minutes

On page 7, in the third line above Enforcement: "education" was changed to "educate."

MOTION: To accept the 9/25/06 minutes subject to the edit on page 7. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

New Applications

Washington Medical Management Co., LLC/125 New Milford Turnpike/ Special Permit: Section 7.6/Front Yard Setback: Dr. and Mrs. Altorelli were present. Mr. Owen noted a public hearing was required and read the 10/23/06 ZEO report. Mrs. Altorelli presented photos of the existing building, elevations, entitled, "Medical Offices at New Preston Commons," by Mr. Nurnberger, dated 10/19/06, and the map, "Existing Conditions," by Mr. Howland, dated 9/12/06. Mr. Ajello stated there was adequate parking available for the proposed doctor's office and it was noted under the recently revised Depot and New Preston Business District Regulations parking requirements were no longer based on square footage. Since the regulations were now more flexible, there was the possibility in the future of a second doctor sharing the premises. Dr. Altorelli said he saw an average of four patients an hour, was in the office four days a week, and had 4 to 5 personnel on staff. It was noted there was also a possibility that parking spaces could be shared with the bank on the same property. A public hearing was scheduled for November 27, 2006; the sixth hearing of the evening.

Whitney/191 Roxbury Road/First Cut: Mr. Owen read the 10/23/06 ZEO Report and asked Mr. Ajello if he had any concerns. The map, "Proposed Site Development Plan," by Mr. Neff, dated 8/7/06 was reviewed. Mr. Martin asked if the Commission could be sure this was a first cut. Mr. Ajello said the owner had signed the Residential Density form and copies of deeds had been submitted, adding that if Mrs. Whitney signed the form and it isn't a first cut, the Commission's approval would be invalid under state law. It was the consensus that because the form had not been signed by an attorney or professional, approval should be conditioned upon a review by the Town Assessor.

MOTION: To approve the application submitted by Mrs. Whitney for a first cut at 191 Roxbury Road subject to the condition that the Assessor confirm the proposed lot is a first cut. By Mr. Owen, seconded by Mr. Martin, and passed 5-0.

Mr. Martin recommended in the future all first cut applications should include the results of a title search by an attorney. The Residential Density form will be amended to include the following statement to be signed by an attorney: I have performed a title search of this property

and certify the proposed lot is a first cut.

Betalotti/32 Flirtation Avenue/First Cut: Mr. Ajello reported that the map submitted with the application showed an intermittent watercourse, so the Inland Wetlands Commission would have to act on it prior to Zoning. He noted the Zoning Commission would have 35 days in which to act after the Wetlands Commission makes its decision.

MOTION: To table further discussion of the application submitted by Mr. Betolatti for a first cut at 32 Flirtation Avenue until after it is acted on by the Inland Wetlands Commission. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Other Business

Revision of the Zoning Regulations/Residential Lighting: Mr. Owen circulated his 10/23/06 discussion draft for Section 12.15: Outdoor Lighting in Residential Districts. He noted he had reviewed regulations from other towns across the country and the Dark Sky International website and had selected enforceable provisions that were appropriate for Washington. Mrs. Hill presented an informational sheet regarding the types of light fixtures that should be prohibited and those that should be encouraged. It was the consensus that an illustrative sheet like this should be included in the proposed section. Mr. Owen noted that once residential lighting regulations are adopted the Commission will require a lighting plan with all site plans. Specific sections were discussed. In 12.15.5 it was decided to keep the following sentence, but delete the rest of the section: Traditional decorative holiday lights may be temporarily installed and operated without a permit. In 12.15.6 it was the consensus to change the provision that strongly discouraged the lighting of trees and other vegetation to one prohibiting it. Mrs. Friedman thought a town ordinance would be more appropriate than revisions to the Zoning Regulations because with an ordinance there would be no "grandfathering." Mr. Owen suggested provisions that would require that any premises for which a building permit is issued must bring its outdoor lighting up to date with the revised regulations. The lighting of outdoor tennis courts was discussed. It was the consensus that Sections 4.3.8, 5.3.6, and 6.3.6 should be amended to permit only unlit outdoor sports courts and this prohibition would also be added to Section 12.15. Mr. Owen noted the interest and support from both the Planning and Conservation Commissions residential lighting regulations and asked that when a public hearing is scheduled that those commissions be invited. Mr. Owen will make the revisions as discussed and this proposed section will be considered again at the next meeting.

Revision of the Zoning Regulations/Restaurants: Mrs. Friedman passed out a summary of what is permitted and prohibited under the current Regulations. She recommended that in order to guard against "fast food" and "drive thru" establishments the regulations should be 1) uniform throughout the districts, 2) all restaurants should be subject to Special Permits, and 3) specific criteria should be listed in Section 13. The commissioners thought this approach was a good idea and asked Mrs. Friedman to write up specific proposed revisions to the Regulations to be discussed at the next meeting.

Privilege of the Floor

Mr. Ajello noted the Commission had dropped its work to revise the sign regulations. He suggested interim revisions to permit free standing signs 5 ft. from the front boundary line and temporary portable signs that would be brought in at night in the business districts. Mrs. Friedman will also work on these proposals.

Enforcement

Moore/25 Litchfield Turnpike/Side Yard Setback and Shop and Storage Use by Contractors and Building Tradesmen: Mr. Ajello noted Mr. Moore constructed a new building too close to the boundary line and was operating a business from his residential property without the required Special Permit. He said he had sent Mr. Moore a letter, but had not yet received a response. Mr. Owen asked Mr. Ajello to include a copy of the new Town fine ordinance in his letter.

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

Mr. Owen adjourned the meeting at 9:55 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator