

## October 26, 2009

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

**Alternates Present:** A.J. DuBois, Harry Wyant

**Absent:** Andy Shapiro, Alternate

**Staff Present:** Janet Hill, Shelley White

**Others Present:** Julie Anderson, Bill & Holly Shannon, Brendan Rourk, Bob Papsin, Irv Ernhout, Martin Brown, Frank Adams, Residents

Mr. Owen called the meeting to order at 7:30 pm.

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

### PUBLIC HEARINGS

223 Litchfield Turnpike, LLC/223 Litchfield Turnpike/Special Permit:

Section 10.4.1.a/Renovations, Addition to Eating and Drinking Establishment:

Ms. Friedman read the legal notice published in Voices on October 11 and October 21, 2009. Mr. Owen read the list of documents on file for this application.

Mr. Martin Brown from Peter Talbot Architects was present to represent 223 Litchfield Turnpike, LLC. The Zoning Commissioners and Mr. Brown looked at the Landscape Plan, titled The Community Grill, dated January 6, 2009 with a revision date of September 24, 2009, by Dirk Sabin for Peter Talbot Architects. The Site Plan, titled The Community Grill, dated January 27, 2009 with a revision date of September 24, 2009, by Peter Talbot Architects was also examined.

Mr. Brown explained that the addition would be used for storage and cooking. He stated the revised site plan shows that the parking and addition will be further away from the wetlands than the previous plan. The ZBA and the Inland Wetlands Commission approved this revised plan.

Mr. Martin stated that the occupancy will remain the same with a maximum of 50 and Health Department approved 46 occupants. There was a discussion regarding the parking. Mr. Brown stated the parking area would be paved. The above-mentioned landscaping plan indicated that there was a fraction of a parking space within the 50-yard setback to a neighbor with a residential lot (Section 10.5.2) and that there would be a planted buffer.

There was a discussion regarding the lighting on the addition and in the parking area. The Commission agreed that the lights should be Dark-Sky Friendly.

Mr. Irv Earnhout asked if the generator enclosure could be insulated. Mr. Brown stated that the generator would only be used for power outages and would be tested monthly during the day.

There were no more questions from the public.

**Motion:**

to close the Public Hearing to consider the Special Permit Application submitted by 223 Litchfield Turnpike, LLC. under Section 10.4.1.a for Renovations, Addition to Eating and Drinking Establishment at 223 Litchfield Turnpike, by Ms. Friedman, seconded by Mr. Abella, by 5-0 vote.

Revision of the Zoning Regulations/Section 17.5.A/Special Exceptions for Section 12.1 under specific circumstances:

Ms. Friedman read the legal notice published in Voices on October 11 and October 21, 2009. Mr. Owen read the list of documents on file for this application. Mr. Owen read the proposed new language for section 17.5 in the Zoning Regulations (on file in Land Use Office). Mr. Owen explained that this revision would relieve the applicant from filing more than one application with ZBA for the same project as well as simplifies the ZBA decision-making process. There were no questions or comments from the public.

**Motion:**

to close the Public Hearing to consider the Revision of Zoning Regulations, Section 17.5.A, Special Exception for Section 12.1 under Specific Circumstances, by Mr. Owen, seconded Ms. Friedman, by 5-0 vote.

## **REGULAR MEETING**

### **Consideration of the Minutes**

The September 21, 2009 Zoning Commission Regular Meeting Minutes were considered:

Corrections:

Page 2:

Under Possible Revision of Zoning Regulation(s)/To Require Eating and Drinking Establishments in the New Preston and Washington Depot Business Districts by Special Permit:

1st sentence should read: Ms. Friedman stated that at the August 24th Zoning Commission meeting she distributed a memo listing 12 reasons as to why the Zoning Regulations for eating/drinking establishments for three business districts should be revised.

4th sentence – Delete: “and Section 10-B4 Woodville Business District.”

8th sentence – should read: Mr. Shapiro stated that he would be in favor of holding a public hearing for an application that would allow input regarding these issues....

**Motion:**

to accept the Zoning Meeting Minutes of September 21, 2009 as corrected, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

**New Application(s)**

There were no new applications.

**Pending Application(s)**

223 Litchfield Turnpike, LLC/223 Litchfield Turnpike/Special Permit:

Section 10.4.1.a/Renovations, Addition to Eating and Drinking Establishment:

The Zoning Commission agreed that under Section 10.5.2 they should officially modify the parking requirement for this application and that the lighting be of Dark-Sky Friendly variety as indicated in the Zoning Regulations under Section 12.15.

**Motion:**

to approve Special Permit Application: Section 10.4.1.a submitted by 223 Litchfield Turnpike, LLC. at 223 Litchfield Turnpike for Renovations and Addition to Eating and Drinking Establishment, with the following conditions:

1) Under Section 10.5.2 allow the parking configuration as indicated on Site Plan titled The Community Grill, Renovations and Additions, SP-1 by Peter Talbot AIA Architects, dated January 27, 2009 with revision date of September 24, 2009.

2) Lighting on the addition and fixtures in the parking area and any additional light should be "Dark-Sky Friendly," by Ms. Friedman, seconded by Mr. Abella, by 5-0 vote.

**Other Business**

Revision of the Zoning Regulations:

Addition of Section 17.5.a./Special Exceptions for Section 12.1 under specific circumstances:

There were no questions or comments.

**Motion:**

to approve the Revision of the Zoning Regulations/Section 17.5.A/ Special Exception for Section 12.1 under specific circumstances, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

The Commission agreed to move forward on the Agenda under Enforcement.

**Enforcement**Discussion /16 Church Street/Compliance with Condition of Approval:

Mr. Bill Shannon of Hinkley Road was present to discuss the issue of lack of compliance with the with condition #9 of the motion to approve the Special Permit application for Washington Montessori School – Washington Housing Trust for 12 units of affordable housing at 16 Church Street per site plans by Peter Talbot Architects, revised date January 10, 2003.

Mr. Shannon stated that he and other neighbors have spoken with the management of the housing units and with the Washington Housing Trust but have not received cooperation.

Ms. Anderson stated that the residents were to be provided a designated storage area for their equipment that is screened from the other neighboring properties view. The Commission examined the photos submitted by Mr. Shannon.

While the Commission agreed that the residents have not been provided a designated area for their personal equipment and that the concentration of these items can seem excessive, they also saw no problem with the conditions shown in several of the photos.

The Commission agreed that the ZEO should inspect the site and that they would like to look at the minutes and approval of this property.

Mr. Owen asked the neighbors of 16 Church Street to give the Zoning Commission at least until next month and that they could check with Ms. Hill on the progress of their findings.

**Other Business Cont.**Possible Revision of Zoning Regulations/Eating and Drinking Establishments in the New Preston and Depot Business Districts by Special Permit:

A Public Hearing has been scheduled for the December 28, 2009 Zoning Commission Meeting.

Discussion Possible Revision of The Zoning Regulations/Section 12.14 Re:Special Exceptions for Generators and Other Noise Generating Equipment:

Ms. Hill stated that the ZBA is working on it and will be bringing draft language to the November 23, 2009 Zoning Commission Meeting.

Report on 9/26/09 Land Use Academy:

Ms. Hill stated that about eight people from the Washington land use commissions attended the UCONN Land Use Academy in Torrington. Ms. Hill briefly reported on some of the legal matters that Attorney Gail McTaggart spoke about on Zoning. She distributed a packet titled Public Hearing Procedures, by Mark K. Branse, which outlined legal issues encountered by land use commissions Ms. Hill suggested that all the Land Use Commissions would benefit from having Attorney Zizka or Mr. Branse come speak to them.

**Privilege of the Floor**

Mr. Bob Papsin from Mygatt Road asked Mr. Fitzherbert to explain on his statement “Business takes care of itself.” Mr. Fitzherbert declined.

Mr. Papsin asked if some of the gas stations have gone to the LED lighting to light up their gas station price signs. He stated that we do not have any regulations against this lighting and then asked if this type of lighting comes to the gas stations on Route 202, will they be able to keep them lit at night.

There was a discussion regarding internally illuminated lighting, which is prohibited in Washington. There was a discussion regarding the CITGO illuminated sign on Route 202 and whether it predated the regulation against internally illuminated signs. It was recommended that the ZEO look into it.

**Communications**

There were no communications to discuss

**Enforcement Cont.**

The Zoning Enforcement Report dated October 26, 2009 was considered and briefly discussed.

Mr. Carriera from 19 New Preston Hill Road discussed his unauthorized rebuilt storage building.

**Executive Session**

Motion:

to go into Executive Session at 8:45 p.m. to discuss pending litigation with Wykeham Rise Appeal, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Motion:

to come out of Executive Session at 9:05 p.m. by Ms. Friedman, seconded by Mr. Owen, by 5-0 vote

**Adjournment**

**Motion:**

to adjourn at 9:10 pm by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Mr. Owen adjourned the meeting.

**SUBMITTED SUBJECT TO APPROVAL:**

Shelley White, Land Use Clerk