

October 27, 2008

Please Note: This is a revised posting of the minutes originally posted November 5th. One word, initially omitted, was added back into to the text and is shown in bold italics. I apologize for any confusion, or misunderstanding this may have caused.

Steve Wadelton - Webmaster

7:30 p.m. Land Use Meeting Room

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

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wyant

ALTERNATE ABSENT: Mr. DuBois

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr./Mrs. Federer, Atty. Fisher, Mr. Klauer, Mr. Szymanski, Atty. Hill, Atty. McTaggart, Mr. Goodin, Ms. Giampietro, Mr./Mrs. Rickart, Mr. Parker, Mrs. Wildman, Mr. Carey, Mr. Long, Mrs. Addicks, Mrs. Hardee, Mr. Surnow, Mr. Showalter, Mrs. Peckerman, Mrs. Materne, Mrs. McDonald, Mr./Mrs. Peacocke, Mr. Papsin, Mrs. Solomon, Mr. Collum, Mr. Rogness, Mrs. Minor, Mr. Whalen, Mr. Mustich, Dr. Ewing, Mr. Talbot, Mr. Payne, Mr. Solley, Mr. Charles, Mrs. Greene, Mr./Mrs. Lasar, Mrs. Clarke, Mr. Pappas, Press, Residents

PUBLIC HEARINGS

Geurts/46 June Road/Special Permit: Section 13.11/Detached Accessory Apartment

Mr. Owen called the public hearing to order at 7:40 p.m. and seated Members Abella, Averill, Fitzherbert, Friedman, and Owen. Mrs. Friedman read the legal notice published in Voices on 10/15 and 10/22/08. Mr. Owen read the list of documents in the file.

Mr. Ajello noted that the applicant had not affirmed in writing that he would reside on the premises for the duration of the permit, but said this could be made a condition of approval.

Mr. Owen read the 10/27/08 ZEO Report.

Mr. Szymanski, engineer, circulated photos of the existing building and submitted a letter dated 10/27/08 from Ms. Castagnetta to Mr. Owen re: the application's compliance with Section 13.11.3. He explained the existing dwelling on the property would become an accessory apartment and a new dwelling would be constructed. Floor plans were reviewed to show the existing dwelling was less than 1200 sq. ft. and would have an unfinished basement.

Mr. Owen asked if the apartment would use the same driveway as the principal dwelling. Mr. Szymanski said it would.

Mr. Ajello said the Special Permit would not become effective until a C of O was issued for the new dwelling.

There were no comments or questions from the commissioners or from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11 submitted by Mr. Geurts for a detached accessory apartment at 46 June Road. By Mrs. Friedman, seconded by Mr. Fitzherbert, and passed 5-0.

Mr. Owen closed the public hearing at 7:47 p.m.

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

Mr. Owen reconvened the public hearing at 7:48 p.m. He explained that the first part of the 10/20/08 session of the hearing had not recorded. On the advice of the Commission's counsel and in an attempt to ensure there would be an accurate record of that hearing, he said he would go through the minutes and give each person the opportunity to comment on their completeness and to make corrections. He noted, too, that all of the documents submitted at the 10/20/08 hearing remained in the file. The review of the minutes follows.

Mr. Owen had first read Atty. Zizka's 10/20/08 letter, which is in the file.

Mr. Owen suggested the Commission focus its discussion on 1) the definition of inn, 2) traffic, 3) parking adequacy and design, and 4) lot coverage and this was followed except for inclusion of additional topics raised by Mrs. Friedman and Mr. Shapiro: driveways and average trips generated per day.

Mr. Owen read his statement re: the definition of inn, which is in the file.

Next the past actions of the Commission regarding inns, creation of an operative definition of inn, and the question of whether the Commission had erred in the past were discussed. All of the commissioners cited in the minutes said their statements were accurately reflected. The public was asked if it agreed, and there were no objections raised.

Mrs. Peacocke read her 10/27/08 letter regarding the Special Permit application and the definition of inn and it is in the file.

Mrs. Peckerman objected to the use of the word, transient.

Mrs. Cooper was not present to confirm that the minutes accurately described her statements, but no one in the public had any corrections.

Mr. Owen asked Mr. Federer if the next paragraph about his presentation was correct. Mr. Federer said it was. His letter submitted that evening is in the file.

Mrs. Andersen was not present to confirm the minutes accurately reported her statements, but those in the public who had attended the last meeting had no objections.

Atty. McTaggart said at this point she had made several statements from a letter that she had not submitted, but said she would submit it tonight and it would cover the issues she had raised.

Next, Mr. Shapiro had asked Atty. McTaggart some questions, including what she thought of the Commission's decision regarding the Mayflower spa. Mr. Owen read the minutes and Atty. McTaggart said they accurately recorded her response.

Mr. Owen stated the paragraph covering his comments on traffic was accurate.

Mrs. Friedman said her question and Mr. Owen said his answer about sight lines were accurate.

Mrs. Friedman's statements about the sight lines along Wykeham Road were accurate.

Mr. Collum stated his mother's statement about traffic was accurate, but that she had also said that the Mayflower Inn was originally a school, another similarity with the proposed inn.

Mrs. Friedman had then summarized Mr. Fore's 10/10/08 letter, which is in the file.

Mr. Owen said his statements about living next to The Gunnery School and to the Mayflower Inn were correct.

Mr. Fitzherbert said the minutes had his statements about traffic backwards. He said he was not concerned about traffic congestion. He said the minutes accurately reported that he had said the Town had improved the sight lines at the Sabbaday-Wykeham intersection.

Mr. Shapiro said his statements about living across from the Mayflower Inn were accurate.

Mr. Owen said his comments about headlights shining into the Ewing's bedroom windows were accurate and noted then Dr. Ewing had corrected him as stated in the minutes.

Mr. Owen read the minutes concerning Ms. Giampietro's remarks and she stated they were accurate.

Mrs. Friedman next asked if Wykeham Road is a scenic road, the answer was that it is not, and she said this was accurate.

A copy of Mr. Miller's complete remarks and traffic analysis were in the file.

Ms. Forese was not present to verify her remarks, but no one from the public had any corrections.

Next, the minutes accurately stated that Mr. Doherty said speeding on Wykeham Road is a problem and Mrs. Cooper was concerned about the dangerous sight lines and the safety of all who use the road, and the loss of the rural road network.

Mrs. Friedman stated the information she had provided on entrances and exits on Wykeham Road was correct.

The points raised by Mrs. Solomon are included in her letter submitted to the file.

Mr. Goodin stated that his statement that the inn would impact the quality of service on Wykeham Road was correct and that the next few pages appeared to adequately address his remarks, but that if he found any mistakes, he would address them later in the meeting.

Mr. Fitzherbert and Mrs. Friedman said the questions they asked Mr. Goodin were accurately reflected.

No one was present from the Selectmen's Office, so Mr. Owen read Mr. Solley's remarks on sight lines and noted the letter from the Board of Selectmen was in the file.

Next, there was more discussion between Mrs. Friedman and Mr. Gooding about traffic and Mr. Goodin said it was accurately reported.

Regarding his lengthy statements on pages 9-10, Mr. Szymanski stated they were correct for the most part. He added to #7 that he had also stated that it was typical for drivers to use their low beams at intersections. He corrected #12 to state that if once the trees were removed the sight lines still needed improvement, and it was necessary to do so, then the applicant would be willing to remove the pillars and the 24" tree. At this time, however, it was not proposed to remove either the 24" tree or the pillars.

Mr. Owen noted Mr. Hunter, appraiser, was not present, but his letter was in the file. He read Mrs. Friedman's statement that the Commission should use its best judgment regarding property values and Mr. Hunter's response concerning the run down state of the property. Atty. Fisher said this portion of the minutes was OK, but he would compare it with his notes and let the Commission know if corrections were needed.

Mr. Rogness said, yes, he did say the inn would have a negative impact on surrounding property values.

Mr. Owen read the remarks by Mr. Parker and for clarification, changed "amphitheatre" to "amphitheatre-like terrain."

Mr. Owen noted that next there was a lengthy exchange between Atty. Hill, Mrs. Friedman, and Mr. Szymanski regarding the lot coverage calculations and whether they should be sent to an impartial expert for review. He noted this was now moot because the referral had been made and report received concluded that these calculations were substantially correct. There were no comments made about the accuracy or inaccuracy of this section.

Atty. Fisher stated he had no problem with the summary of Mr. Hunter's statement, but he disagreed with Mr. Owen's statement at the beginning that the Mayflower Inn was situated on 30 acres. Mr. Owen stated, yes, that figure was in his document that had been submitted for the record. Mrs. Friedman stated that she would make a correction about the Mayflower acreage later in the hearing.

It was noted that from this point on, the hearing had been recorded. Mr. Owen said if anyone thought of something that should be added or corrected, he could bring it up later. And he asked Mr. Goodin to write down any comments he might want to add. New testimony begins at this point.

Mr. Ajello reported there was a new document from the Fire Marshal with the wording adjusted to say the road width and turning radii had been taken into consideration. Mr. Owen noted he had spoken with Mr. Etherington who said he had no concerns about the application.

Mr. Owen read the list of documents submitted at and since the last session of the hearing. It was noted the 10/22/08 letter from Mr. Smith, surveyor, regarding the lot coverage analysis should also be listed. He found the proposed lot coverage was 9.8%. Mr. Ajello said that Mr. Smith had found a spring that had not been accounted for and had added the coverage for some minor utilities.

Regarding the grass pavers to the detention pond, Mr. Owen thought that the passage of annual maintenance vehicles was not counted as coverage under the Regulations and he would reserve judgment about whether pavers should be installed there.

Atty. Hill said he did not understand why the Fire Marshal had no problem with the proposed 16 ft. wide driveways. He also noted that the proposed driveway of porous pavement was actually 21 feet wide because there was a 5 ft. wide porous pavement walkway running along side it that could not be distinguished from the driveway itself. He said that when the 8000 sq. ft. for the walkway was added to the coverage calculations, it increased lot coverage to 10.5%. Atty. Hill said the applicant achieved lot coverage of less than 10% by a distorted reading of the Regulations.

Mr. Goodin, engineer, pointed out on the "Lot Coverage Map" what he found as three problems with the applicant's lot coverage calculations and driveway-sidewalk layout. 1) He stated that the sidewalk pavement was at the same elevation, looked the same, and was a contiguous part of the driveway pavement and that the sidewalk followed the driveway except where there was parking. He said the Fire Marshal would have looked at the plans and would have thought the sidewalk could be driven on. He said it was not a safe layout for a sidewalk to extend partly into a parking area. Mrs. Friedman asked if the parking areas had been included in the lot coverage. Mr. Goodin said they had, but the walkway along the edge of the parking had not. 2) Mr. Goodin read the part of the lot coverage definition pertaining to pedestrian walkways and noted porous pavement was not listed as one of the more natural materials that when used, exempted these walkways from counting as coverage. 3) Mr. Goodin noted that the driveway for the maintenance of the detention basin has a 17% grade and also serves as the maintenance access for the pump house for the wells. He thought that the steep grade was the reason the pavers were proposed, noting that usually when the grade exceeds 10-12% pavement is installed. He said the pump house would require routine, not annual, inspections. Mr. Goodin also stated that no sizes were included on the architectural plans so he was not able to confirm the sizes of the buildings, patios, and terraces proposed. He stated that any one of these three points would bring the lot coverage over the 10% maximum permitted.

Atty. Hill again stated that if the sidewalks along the driveway were included as lot coverage, it would be 10.57%. As a legal point he noted that the Zoning Regulations define lot coverage in terms of structures or anything manmade placed on the ground, which would include pavers. He also stated there was no exception given for anything used only once or twice a year, and that Atty. Zizka's opinion that the maintenance driveway should not count as coverage because it would be used only once a year was for a grassed access, not for pavers. Mr. Owen said this was correct.

Mrs. Friedman asked for the exact measurements of the proposed buildings. She said they had not been provided and she had not been able to confirm the proposed building height. Mr. Averill asked how the lot coverage calculations could have been done without the exact

measurements of the proposed buildings.

Mr. Szymanski said the sidewalks should *not* count as coverage. He said there was no intent to use the sidewalk as part of the driveway. He said the sidewalk would be a light brown rubber based porous material and the driveway would be black porous asphalt. He said he could move the sidewalk 3 ft. from the driveway on the upper side and that there was a curb separating them on the lower side.

Mrs. Friedman noted there had been a previous revision re: sidewalks. Mr. Szymanski said north of the proposed main structure they had been moved to run along the driveway rather than through the landscaped area, but said he could change it back.

In response to a question by Mrs. Friedman, Mr. Goodin pointed out the areas where he had concerns about the sidewalk, which was generally all areas where there was no curb between it and the driveway.

Mr. Szymanski complained that Mr. Goodin didn't bring up his concerns earlier in the process. Mr. Goodin responded that he had asked for all materials, labels, and dimensions at the first meeting, but this information was submitted piecemeal.

A lengthy discussion followed about the specifications of the materials proposed for the sidewalks and driveways, how they differed from natural materials such as gravel and pea stone, comparison of infiltration rates, etc.

Mr. Szymanski addressed the access to the detention pond and pump house with its associated underground storage tanks. He said he inspects the Candlewood pump house daily on foot. It was noted, however, that pump house is 30 ft. from the driveway, whereas, the proposed pump house is 220 ft. from the driveway. Mr. Szymanski assured the Commission that the detention pond would only need maintenance once a year because he had shown that only 2 c. yards of material would need to be removed from it each year. He said this would be accomplished with three trips up and down the slope and that after the work was done a couple of shovels of top soil and seed could repair any disturbed areas.

Mr. Owen asked if the grass pavers were necessary. Mr. Szymanski said they were not and could be deleted from the plans.

Mr. Averill asked why the sidewalk followed the driveway up the hill, disappeared in the parking area, and then reappeared on the other side. Mr. Szymanski said the idea was not to add any unnecessary sidewalk. He said there was a shoulder so that pedestrians could walk behind the parked cars and that the driveway width itself could safely accommodate both vehicles and pedestrians.

Mr. Owen thought it was a problem that the sidewalks were contiguous and indistinguishable from the driveway. Mr. Szymanski said he would separate them if that's what the Commission wanted.

Mr. Szymanski discussed the architectural plans. He said he had sent Mr. Smith the autocad with all dimensions, including the architectural measurements, so that he could accurately verify the lot coverage.

Atty. Hill called the plans a "stream of consciousness design." He noted that if the sidewalk was separated from the driveway, the grading would change and it would be a different plan submitted just before the close of the hearing. He said that the applicant had told the Inland

Wetlands Commission that the grass pavers were needed to stabilize the slope down to the detention pond, but he had told the Zoning Commission he would remove them. He said that nothing in the record established what the building coverage was supposed to be and there was no design for the porous pavement; only generic information. He said there was no specific landscape screening proposed, no dimensions for the footprints of the proposed buildings given, and that the plans did not show how large the proposed buildings would be so it would be impossible to enforce an approved plan.

Mr. Owen asked if the building dimensions were on the plans. Mr. Szymanski said the plans were drawn to scale.

Mr. Owen thought Atty. Hill's concern about enforcement was a valid one, noting the staff doesn't use autocad. Mr. Szymanski said as part of the construction process the applicant would have to provide as-builts for both the buildings and for lot coverage.

Atty. Hill said this was absurd because the Commission would not know if the buildings had been constructed as required if their specifications weren't provided beforehand.

Mrs. Friedman noted that the architectural plans stated that the drawings were not necessarily drawn to scale. She read this note on the plans. She said she could not confirm Mr. Federer's statements made at the last meeting because the applicant had not submitted accurate measurements. Mr. Szymanski stated there was an autocad to scale by Moisan Architects, revised to 9/22/08. He also noted the buildings were to scale on the Site Development Plan and that although the actual elevations of the proposed structures were not shown, their heights were given.

Mrs. Friedman asked Mr. Ajello if he had confirmed the height of the proposed buildings. He said he had to the best of his ability.

Mrs. Friedman asked for the dimensions of the main building. Using the scale, Mr. Szymanski gave the following: entire building is tiered into the hillside so that the total height does not exceed 40 feet, restaurant: 108' deep, 140' long, section with 14 rooms: 26' deep, 115' long, spa: 80' deep by 145' long. He said the total length across was 385 ft. He described how the main building would be screened from view from the road and said it would be less visible than the existing 220 ft. long main structure.

Mrs. Friedman asked if the applicant had considered entirely closing off the east access. She thought if it was closed off and a buffer planted in this area, it would provide additional screening. Mr. Szymanski said the proposed site development would have less impact than what exists today and he did not want to remove a potential access. Mrs. Friedman said there were letters from both the emergency services dept. and the Fire Marshal saying that the proposed access was OK, so she did not understand why the east entrance was necessary. She again said this area could be used for more screening. Mr. Szymanski stated this would be OK with the applicant if it was OK with the Fire Marshal who had reviewed plans which did not indicate this area would be a vegetated buffer. Mrs. Friedman asked if an emergency access had been shown on the plans the Fire Marshal had reviewed. Mr. Szymanski said, no, but that the Marshal had understood that area could be used for an emergency access.

Mr. Fitzherbert noted that in most places a second emergency access is mandated.

Mr. Owen asked what would be seen from Bell Hill Road. Mr. Szymanski described the proposed buffering in that direction and said it

would be more difficult to see the inn from Bell Hill.

Atty. Hill asked if the screening renderings were in the record. Mr. Szymanski said they were.

Using the landscaping plan, sheet EL.2, Atty. Hill pointed out the lack of specific details including specific varieties of trees and shrubs were not cited and the size and number to be planted were not cited. Again he stated that the Commission could not enforce what it couldn't describe.

Mr. Owen noted the Commission typically leaves the applicant and neighbors to work out a suitable agreement regarding landscaping details.

Mr. Beaver, landscape architect, said that at the first session of the public hearing he had stated that 2.5"-3" caliper trees and 3 ft. tall shrubs would be planted. He said screening for neighbors would be composed of a mix of evergreens, deciduous trees, and flowering shrubs that would provide variety and seasonal colors. He pointed out that all landscaping would be staked in the field for approval prior to installation, offered to let a Town official inspect the stakes prior to planting, and offered to plant additional plants if the Commission thought it was necessary.

Mr. Szymanski stated the buffer along the Federer property would be installed prior to the start of construction.

Mr. Owen asked if the public hearing file from the proposed revision to the Regulations regarding porous pavements should be added to this file. Both Atty. Hill and Mr. Szymanski objected.

Mr. Solley commented on the east access. He noted that if the asphalt was removed and the area top soiled and seeded so that it would not count as coverage, it would not be usable during the spring thaw. He thought either it should be grassed and not considered an emergency access or considered an emergency access and counted as coverage.

Mr. Goodin reviewed the landscaping plans, pointing out that there were many conflicting aspects. 1) One plan shows all trees to remain, while another shows the removal of 35 trees along Wykeham Road. 2) In some areas the applicant would be cutting down more trees than he would replace. 3) The landscaping plan does not specify that the area where the driveway would be removed will be top soiled and seeded. He noted the plans are the record that the Commission must act on, not what is stated at the hearing.

Mr. Goodin spoke about the architectural plans, which in his experience, he said, were very incomplete. Mr. Owen noted that they had been reviewed by the impartial expert, but Mr. Goodin said he had not confirmed the square footage of all buildings. His concerns included that one plan showed an indoor pool and another plan didn't, that building dimensions were not provided, and only one elevation was submitted so that whether the building height met the Regulations could not be confirmed.

Mr. Goodin stated normally building heights are measured from multiple points, Mr. Szymanski stated this was not required by the Regs, and the method of measurement was briefly discussed. Mr. Ajello noted the buildings would be built into the hillside to minimize grade changes. Mr. Goodin objected to the use of the 470 elevation as the average elevation and he stated the silo portion of the building was 42

feet tall from the average grade to the maximum height. He said an as-built as Mr. Szymanski suggested be required would be no good after the construction of the building had been completed.

Mr. Szymanski noted sheet OSD.2 has a table regarding the height calculation and he explained how the height had been determined using the more restrictive grades. He also noted that although he did not consider the cottages and quads to be accessory buildings, none exceeded the 26 ft. maximum height. He also noted the architect's floor plans are to scale.

Mr. Owen asked if there would be a pool in the main building. Mr. Szymanski said there would not and that the only impact to the plan by removing it was regarding fire protection and that underground storage tanks had been provided as compensation.

Mrs. Friedman noted that both letters from the Fire Marshal state that the plans include two swimming pools. She asked when the pool had been deleted. Mr. Szymanski said it had been deleted when the applicant had first met with the Fire Marshal, prior to submission of his first letter and that the area where the pool had been removed would be unexcavated floor area.

Mr. Szymanski stated the report by Mr. Branson, forester, confirmed that the 35 trees to be removed were diseased or dying.

Regarding the deletion of the service driveway, Mr. Szymanski said that details for the restoration of this area had been submitted.

The height of the main building was discussed. Mrs. Friedman pointed out that Mr. Goodin did not think there was adequate documentation submitted to determine its actual height or the average grade from which that is measured. Mr. Szymanski disagreed, reviewed the table on height, explained his method of calculation, and said that with the help of Mr. Ajello the Commission could determine the height of the proposed building.

At 10:07 p.m. the Commission took a brief recess. The hearing was reconvened at 10:18 p.m.

Mr. Averill expressed his frustration with the ever increasing rounds of conflicting opinions presented by the experts for both sides.

Mr. Fitzherbert asked if Mr. Owen thought the issue of the sidewalk contiguous to the driveway had been resolved. Mr. Owen responded that the applicant had offered to remove it if the Commission so requested, but, no, the matter had not been resolved. Mr. Ajello noted the colors of the driveway and walk would differ and asked if the Commission wanted more separation. Mr. Owen said he wanted a physical separation. Mr. Fitzherbert noted this could raise problems with grading. Mr. Szymanski stated that even with a 3 ft. separation there would be the same ultimate cross section.

Atty. Hill noted the plans approved by the Fire Marshal differed from those now being discussed because 1) a pool had been deleted and 2) the driveway width would be narrower if the sidewalks were moved. He added that the sidewalk changes had both drainage and inland wetlands implications.

Mr. Owen asked if the grass pavers were included in the plans now before the Inland Wetlands Commission. Mr. Szymanski said, they were.

Dr. Ewing asked if it was possible that the Fire Marshal had reviewed the plans thinking a 20 – 21 ft. wide driveway had been proposed. Mr.

Szymanski said this was not possible.

Mrs. Friedman pointed out that at the time the Fire Marshal submitted his second letter of approval, there were no turning templates in the file.

Mr. Fitzherbert asked why Mr. Owen objected to the sidewalks being contiguous to the driveways. Mr. Owen looked up the definition of lot coverage and said he did not see how one could be treated as a driveway counting as lot coverage and the other as a sidewalk not counting as coverage if there was nothing to distinguish the two surfaces and no physical separation. Mr. Szymanski said he would revise the plans by including a separation, and again said that there would be no drainage implications.

Mrs. Peacocke expressed her concern about how lot coverage was being computed said she thought the Commission was making an operative definition of walkway that would be precedent setting and that would result in enforcement problems. She referred at length to Sections 11.5 and 21.1.37 of the Zoning Regulations and to the July 28, 2008 Zoning minutes. She argued that the use of wheeled housekeeping trolleys, golf carts, etc. would make the walkways traveled surfaces, which should count towards lot coverage. Mr. Owen disagreed, saying that no court would treat luggage carts as vehicles, the term, traveled surface, did not appear in the definition of lot coverage, and that the Commission could deal with this issue later.

Mr. Federer noted that experts can disagree on dimensions and so to illustrate the size of the proposed main building he asked Mr. Talbot, architect, to provide a graphic illustration of its overall scale. Mr. Talbot presented both an elevation of the existing buildings along Bryan Plaza and an aerial photo of the Plaza and overlays of the proposed main building that compared their length, height, and mass. Mr. Federer described the proposed main building as a "mini Depot." Mr. Talbot said the overlays addressed how the proposal does not comply with Section 13.1.B.2 of the Regulations and he pointed out how the proposed building was significantly larger than the Depot buildings. On a second board, he presented overlays to show that the other proposed buildings were larger than the existing houses on the properties surrounding the site.

Atty. McTaggart said she assumed the hearing would be closed this evening and so made the following concluding points: 1) She stated that Section 13.9.2 did not permit inns anywhere other than on properties with 500 feet of frontage on a state highway. She asked the Commission to be consistent in its interpretation and noted that the past chairman had submitted two communications stating that in the past, state highway frontage had been required. 2) She agreed with Atty. Hill regarding his arguments concerning CGS 8-2h. 3) She stated that the proposed 9.8% coverage was not in harmony with the scale of the surrounding neighborhood and that per the Special Permit standards in Section 13.B.1, the application could be approved only if it were determined that the proposed inn/restaurant/bar/spa/fitness center fits in with this particular neighborhood. She thought even if the lot coverage was reduced, the use would still be too intense to be in harmony with the neighborhood. 4) Atty. McTaggart argued that the access for the inn was not safe. Among the concerns she listed were a) only one point of ingress-egress was proposed for an establishment of this size, b) the driveways were only 16 ft. wide, c) there were walls on both sides of the driveway at the entrance-exit, and d) the minimum driveway plan proposed to get the plan below 10% lot coverage did not work well, nor did it provide safe emergency access for the remote cabins. 5) She stated that the massive building proposed looked like a commercial complex that was not in keeping with the residential neighborhood and that the commercial nature of the use; the large building serving many people and generating many vehicle trips per day was also not in keeping with the neighborhood. 6) She thought that if better plans had been submitted, it would have been easier to compute the lot coverage and it would have been found to be over 10%. 7) She pointed out

the Zoning Regulations require the proposed use to be consistent with the goals of the Plan of Conservation and Development, which are primarily to preserve the rural character of Town and also to preserve the existing commercial areas and the existing rural road network. She read the definition of rural character from the Plan and Section 4.1, the purpose of the R-1 District. 8) Atty. McTaggart stated the proposed inn was beyond the normal concept of an inn in this community and that due to its scale, intensity, public use, etc. it could not be approved under the Special Permit criteria.

Atty. Fisher addressed Section 13.9.2, saying the revision to this regulation had not been a clarification. He disagreed with Atty. McTaggart's interpretation of this section and said under the old language it had been clear that inns had been allowed on both Town and state roads. Regarding Section 8-2h, he stated he had already submitted a letter on this matter and that his interpretation was key because the statute referred to all applicable regulations, not to all regulations. He noted this question would be decided in court. Atty. Fisher disagreed with Atty. McTaggart's statement that the proposed lot coverage was out of harmony with the surrounding neighborhood. He said that inns are allowed only in residential districts and that its design and landscaping make it compatible with the neighborhood. He said the existing school building would be removed, and the portion of the new main building that could be seen from Wykeham Road would be consistent with the rest of the Wykeham Road area. He noted that Mr. Klauer had submitted a detailed letter, which described how the application met all of the Special Permit criteria. Regarding Atty. McTaggart's claim that the one proposed entrance-exit was not safe, Atty. Fisher responded that the east entrance would remain as an emergency access, that this access would be suitable for emergency vehicles except during mud season, and that the Mayflower Inn has only one narrow access that had been approved by the Commission for the spa without a requirement for a secondary access. He stated that the Plan of Conservation and Development is advisory only, so said he was not prepared to address this matter. He noted that inns are uses allowed by Special Permit in the R-1 District.

Mr. Rickart passed out his 10/27/08 statement to all commissioners and then summarized it. His points included: 1) the proposal was ill conceived and that its approval would do irreparable damage to the neighborhood. 2) Some of the data submitted by the traffic expert was not entirely accurate, such as the statement that school traffic does not impact Wykeham Road, so the Commission should rely on its common sense to judge traffic concerns. 3) The proposed entrance-exit worsens the sight line issues and the applicant was not proposing to widen it as he thought should be done for two reasons; a) Inland Wetlands approval would be required and 2) lot coverage would be increased. 4) Parking was being understated to hold down the lot coverage. 5) The service entrance/dock had been poorly designed to keep lot coverage down and would result in traffic back ups. 6) Previous approval of the Mayflower spa does not require approval of this application because there are distinguishing factors; a) the Mayflower has access from a state highway, b) the Mayflower Inn is a less intensive use, c) the Mayflower spa application had been related to an existing ongoing commercial enterprise that was already a part of the community. 7) The nature and scale of the project are not appropriate for the neighborhood. 8) The applicant has offered restrictions to the proposed inn that would be impossible to monitor in an attempt to make an incompatible project less objectionable to the Commission. 9) There were less objectionable alternatives that could have been proposed by reducing the size and scope of the project. 10) This is a large scale commercial operation that would impact any commercial district, let alone this residential district. 11) The application does not meet the criteria required in Section 13.1.B.

Mr. Solley, Selectman, made three points. 1) Fire safety: He read the 10/22/08 letter from the Fire Marshal, which OK'd the proposed 16 ft. wide driveway. He said this was inconsistent with what the Town and the Fire Marshal had previously required for The Gunnery School classroom on South Street, the Rumsey Hall hockey rink, and the Housing Trust units, all of which were required to have 18 ft. wide driveways. He noted the Fire Marshal requires 18 feet for the passage of emergency vehicles. He thought the applicant must have promised

some additional water storage facilities in exchange for the Marshal's approval of the 16 ft. wide driveways. He cautioned the Commission that if it approved the application, it should require all infrastructure to be installed first as there are many fires at construction sites and often these are not installed at the end of a project because there are no funds left. He noted that Mr. Etherington referred to two swimming pools in his second letter, but that one had been deleted from the plans. 2) Conditions of approval offered by the applicant: Mr. Solley stated that based on his experience as the Town's ZEO for 18 years, it would be impossible to enforce the conditions that Mr. Klauer offered in his 10/17/08 letter. In particular, he stated that deliveries could not be controlled as Mr. Klauer proposed. 3) Appearance of main building: Mr. Solley noted how the middle-high school building looks out of character with its neighborhood and hoped the Commission would fully consider the scale of the proposed building and make itself familiar with all of the information in the file.

Atty. Hill noted that Mr. Klauer had submitted a letter today, which had proposed additional impractical, and unenforceable conditions of approval. For example, keeping track of the high season, controlling which weeks children were allowed in the pool, and controlling the number of guests using the function room were not possible. Atty. Hill noted that Mr. Hunter, appraiser, had found there would be no adverse impact to the surrounding property values even though the landscaping plan was inadequate and noise had not been considered. He submitted the opinions of three appraisers who said the inn would have a negative impact on property values in the area. Atty. Hill stated the Commission could not approve the application because it was incomplete and did not meet the Special Permit standards.

Mr. Goodin submitted two reports; one addressed traffic and the second addressed all other issues, and plans for the record. He urged the commissioners to review the plans to see that intersection sight lines and stopping distances had not been adequately addressed. His criticisms of the site development plan included: 1) it did not show the sewage system and water lines as required, 2) a driveway runs over the primary and reserve septic system areas, 3) the size of the water lines is not specified, 4) drainage problems due to the 2:1 slope behind the proposed buildings had not been addressed, 5) site lighting was inadequate, 6) the proposed 16 ft. wide driveway was very narrow and there was not adequate width provided for turning into the parking spaces, 7) the pedestrian walkways proposed in the parking areas behind parked cars were not safe, and 8) the architectural plans for the proposed 35,929 sq. ft. main building were not adequate.

Mr. Szymanski clarified that the footprint of the main building was 19,900 sq. ft.

Mr. Goodin stated that the proposed water lines and sewer system were within the 50 ft. setback required from wetlands. He also noted there were several areas where the proposed erosion and sedimentation control measures do not meet the state guidelines.

Mr. Parker submitted a letter that due to the late time, he said he would not read. He said the letter pointed out flaws in Mr. Klauer's letter concerning compliance with the Special Permit criteria and he noted that the majority of the surrounding property owners had spoken out thoughtfully against the application.

Mr. Solomon submitted a letter about noise and the outdoor community pool to be used for commercial purposes. He said it would not be possible for the Commission to enforce the restrictions offered by Mr. Klauer. He said approval would set precedents for commercial developers who would then draft plans that minimize lot coverage by ignoring safety and common sense. He asked the Zoning Commission to uphold its regulations and deny the application.

Dr. Ewing stated that several months ago the Commission had clarified its regulations to require that inns have 500 ft. of frontage on a state

road, noted that the vote had been 4-1 at that time, and said he would expect those four commissioners to vote against the current application. He also noted that the requirement to preserve the rural character of the area required the Commission to vote against the application.

Atty. Fisher complained that so much information had been submitted at the last minute and the applicant did not have time to study it and to respond. He said he would request that the hearing be continued.

Mr. Peacocke stated it was impossible for both sides to have the last word and he thought further debate back and forth would have no great value.

Mr. Szymanski requested the opportunity to respond to Mr. Goodin's comments point by point tonight.

Mr. Averill said he did not think it was necessary to continue the public hearing as it was turning into more of a debate than a hearing.

Mr. Shapiro said he would not like to deny anyone an opportunity to speak, but echoed Mr. Averill's point of view.

Mr. Fitzherbert agreed with Mr. Shapiro, but noted the Commission had a long history of not cutting anyone off.

Mr. Ajello stated that legally the applicant gets the final word.

Mrs. Friedman was concerned as she had never heard that before and noted the commissioners already had a lot of new material to try to absorb.

Mr. Abella agreed with Mr. Fitzherbert that the applicant should be allowed to continue with his response.

After a very brief discussion, it was agreed to continue the public hearing to Tuesday, October 28, 2008 at 7:30 p.m. in the Main Hall, Bryan Memorial Town Hall.

MOTION: To continue the public hearing to consider the Special Permit application: Sections 4.4.1 and 13.9 submitted by Wykeham Rise, LLC. for an inn at 101 Wykeham Road to Tuesday, October 28, 2008 at 7:30 p.m. in the Main Hall, Bryan Memorial Town Hall. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

Atty. Fisher submitted his 10/27/08 letter requesting an extension of the hearing. At 12:14 a.m. Mr. Owen continued the public hearing per the motion above.

These public hearings were recorded on tape. The tapes are on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Owen called the Regular Meeting to order at 12:16 a.m.

Consideration of the Minutes

MOTION: To accept the 9/22/08 Public Hearing-Regular Meeting minutes as submitted. By Mrs. Friedman, seconded by Mr. Fitzherbert, and passed 5-0.

Pending Applications

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

This public hearing was continued to 10/28/08 at 7:30 p.m. in the Main Hall, Bryan Memorial Town Hall. Mrs. Friedman noted she had a minor correction to Mr. Owen's statement regarding inns made at the beginning of the 10/20/08 session of the public hearing. On page 7 she noted that the Mayflower Inn acreage was incorrectly given as 35.4 acres. She said it is actually 45.4 acres.

Geurts/46 June Road/Special Permit: Section 13.11/Detached Accessory Apartment

MOTION: To approve the Special Permit application: Section 13.11 submitted by Mr. Geurts for a detached accessory apartment at 46 June Road subject to the condition that the owner submit an affidavit that he will reside on the premises for the duration of the permit. By Mr. Owen, seconded by Mr. Averill, passed 5-0.

Donovan/Kinney Hill Road/Special Permit: Section 13.11/ Detached Accessory Apartment:

A letter from Mr. Harris, architect, was circulated. The commissioners were asked to review it before next month's public hearing. Mr. Ajello also recommended that they come into the office to review the floor plans.

MOTION: To adjourn the meeting. By Mr. Owen.

Mr. Owen adjourned the Meeting at 12:20 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Coordinator