

November 22, 2004

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

MEMBER ABSENT: Ms. Page

ALTERNATES PRESENT: Mr. Abella, Mr. Shapiro

ALTERNATE ABSENT: Mr. Brinton

STAFF PRESENT: Mr. Ajello, Mrs. Hill, Mr. Sears

ALSO PRESENT: Mr. Lasar, Mr. Swanson, Mr. Charles, Press

PUBLIC HEARINGS

Revision of the Zoning Regulations/Sections 11.7.3.1, 12.5.2, 21.1.4/Height of Accessory and Primary Buildings

Mr. Martin called the hearing to order at 7:30 p.m. and seated Members Friedman, Fitzherbert, Martin, and Owen and Alternate Shapiro for Ms. Page. Mrs. Friedman read the legal notice published in **Voices** on 11/10/04 and 11/17/04. Mr. Martin read the list of documents in the file and read the 10/7/04 memo from Mr. McGuinness, Director of the NW Ct. Council of Govt's.

Mr. Martin briefly explained the proposed revisions to reduce the total vertical height of primary structures from 45 feet to 40 feet and to provide more flexibility in the regulations regarding the relationship between the height of accessory and primary structures. He said the revision to decrease the maximum height to 40 feet addressed a concern raised in the Plan of Conservation and Development and would bring Washington into line with other towns. Also, the 40 ft. limit would not unduly restrict the slope of a roof as steeper sloped roofs are often used in this region. Secondly, under the proposed language an accessory structure such as a barn could be taller than the primary structure as long as it is smaller in ground floor area and volume than the primary structure.

After taking into consideration Mr. McGuinness's comments and having consulted with the land use attorney, Mr. Martin recommended the following: 1) the term, "scale," be deleted throughout the proposed revisions, 2) the term, "volume," be retained because it is more clearly understood, 3) a provision that accessory buildings be limited to 75% of the size of the primary structure on the same lot be added to Section 12.5.2, 4) clarifications to the height chart and table be incorporated, and 5) a definition of ground floor area be added to Section 21. It was agreed the following sentence would be added to 12.5.2: The ground floor area and volume for an accessory structure shall not exceed 75% of the ground floor area and volume of the principal structure. Mr. Owen noted there could be instances where the principal structure is not a building, and so recommended "structure" be changed to "building" in this section. All agreed. In keeping with this recommendation, Mr. Owen further suggested the definition of accessory building be clarified and changed to: a building whose use is subordinate to the principal use on the property and which is smaller in ground floor area and volume than the principal building on the same property. In Section 11.7 a reference to the height chart and table will be added for clarification with the following sentence; Standards shown in the accompanying height chart and table are incorporated into these Regulations. In Section 11.7.2.2 a typo was corrected so that Section 11.7.3.2 will become 11.7.2.2. Also in Section 11.7.2.2 the following sentence will be added: See the accompanying height chart and table for the maximum mean height allowed by roof design. The height chart and table will be given a section number and incorporated into the Regulations. Mr. Martin pointed out that although flexibility is being added to the height restriction for accessory buildings, they could still not exceed 26 feet in

height. Mr. Lasar thought this was still too restrictive for barns, but Mr. Martin explained that barns used for agricultural purposes were exempted.

There were no other comments or questions raised.

MOTION: To close the public hearing to consider the revision of the Washington Zoning Regulations: Sections 11.7.3.1, 12.5.2, 21.1.4 re: height of primary and accessory buildings. By Mr. Owen, seconded by Mr. Shapiro, and passed 5-0.

Mr. Martin closed the public hearing at 8:02 p.m.

David Connolly, Inc./249 New Milford Turnpike/Special Permit: Section 9.4.1/Addition to Existing Commercial Building

Mr. Martin called the hearing to order at 8:03 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Shapiro for Ms. Page. Mrs. Friedman read the legal notice published in **Voices** on 11/10 and 11/17/04.

Mr. Lasar, architect, summarized the proposal for a one story commercial addition to be used as office space and light manufacturing in the Marbledale Business District and submitted a report entitled, "Special Permit Application for B-3 Marbledale Business District," revised to 11/21/04. He stated he was applying for the development options 9.5.1; 43.4% lot coverage and 9.5.2; 5400 total sq. ft. of buildings on the site. The map, "Site Plan," by CCA, LLC., 2 sheets, dated 9/10/04 and floor plans dated 9/22/04 by Stephen Lasar Architects were reviewed. Mr. Martin explained in order for the applicant to be granted flexibility under Section 9.5, he must show that he has met the additional criteria for site and building design listed in Section 9/6. Mr. Lasar stated he had done so.

Mr. Martin read the 11/22/04 ZEO Report.

The following issues were discussed:

- **Parking:** Mr. Ajello recommended the required parking be computed under Section 15.2.9 because the facility will be used to manufacture jewelry. 23 parking spaces were proposed, although Mr. Lasar stated only 21 were required. He said that because many of the employees travel, they would not be there at the same time. Processed stone was proposed for the driveway and parking areas. The existing walkway will be used.
- **Use:** Mr. Lasar noted there would be office space and light manufacturing, but no retail activity.
- **Coverage:** Mr. Lasar stated the applicant met the criteria in Section 9.6 and so applied for 43.4% coverage. (25% is normally permitted.) Mr. Owen supported the request for increased lot coverage, noting the expansion of a local business was beneficial to the Town.
- **Preservation of a historic structure/Architecture:** Mr. Lasar said the existing building would be restored and that the architecture of the proposed addition was harmonious with and subordinate to the main building. The addition would be lower than the main portion and slightly set back. It would be brick so that it would not detract from the existing building and would "refer" to the church, which is also brick. A computer rendering of the addition was circulated. Mr. Owen noted the existing building looked residential and blended in with the

surrounding neighborhood. Mr. Lasar said this would not change except a handicapped ramp is required.

- **Buffering/Landscaping:** Mr. Lasar noted the existing building would serve as a buffer between the addition and the church and that there is already buffering between this property and the Post Office lot. He proposed to take down one tree and to plant against the building. He did not think planting to screen the front was appropriate due to sight line requirements for pulling out of the driveway.
- **Setbacks:** Mr. Lasar stated the proposal met all setback requirements.

It was noted four certified notices to adjoining property owners had been mailed and four green receipt cards had been received.

Mr. Martin noted the regulations had been written to encourage this type of project. There was a discussion concerning whether the Commission should approve the application contingent upon future additional landscaping or whether it should inspect the property and act at the next meeting. Because this was only the second application received under Section 9.5; Development Options Permitted by Special Permit, and the Commission wanted to review options for landscaping and parking configuration, a site inspection was scheduled for Friday, November 26, 2004 at 10:30 a.m.

MOTION: To continue the public hearing to consider the Special Permit application: Section 9.4.1 submitted by David Connolly, Inc. for an addition to an existing commercial building at 249 New Milford Turnpike to December 20, 2004 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington, Ct. By Mr. Fitzherbert, seconded by Mrs. Friedman, and passed 5-0.

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. Martin called the Regular Meeting to order at 8:37 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Shapiro for Ms. Page.

Consideration of the Minutes

MOTION: To accept the 10/25/04 Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Shapiro, and passed 5-0.

Pending Matters

Revision of the Zoning Regulations/Sections 11.7.3.1, 12.5.2, and 21.1.4/Height of Primary and Accessory Buildings: The Commissioners approved the proposed revisions as discussed at the public hearing.

MOTION: To approve the revisions regarding height of primary and accessory buildings to Sections 11.7.3.1, 12.5.2, and 21.1.4 of the Washington Zoning Regulations as amended in the discussion at the 11/22/04 public hearing, including: 1) delete the term, "scale," throughout the proposed amendment, 2) add the definition of "ground floor area," to Section 21, 3) add the following sentence to 12.5.2,

"The ground floor area and volume of an accessory building shall not exceed 75% of the ground floor area and volume of the principal building, 4) edit the definition of accessory building to: a building whose use is subordinate to the principal use on the property and which is smaller in ground floor area and volume than the principal building on the same property, 5) change the term accessory structure to accessory building throughout the proposed amendments, and 6) clarify the references to the height chart and table in Section 11.7 and incorporate the table into the text. By Mr. Martin, seconded by Mrs. Friedman, and passed 5-0

David Connolly, Inc./249 New Milford Turnpike/Special Permit: Section 9.4.1/Addition to Existing Commercial Building: The public hearing was continued to the next meeting.

New Application

Camp/101 Gunn Hill Road/First Cut: This application was incomplete because it had not been signed off by the Health Department and so was not accepted by the Commission.

Other Business

Section 16: Sign Regulations: It was noted that input had not yet been received from the Washington Business Assoc., (WBA). Mr. Martin recommended Mrs. Friedman and Mr. Brinton begin work on proposed revisions with the understanding that the WBA would have opportunities for input in the future. Mrs. Friedman asked if enforcement of the sign regulations had begun. Mr. Ajello said it had not due to his current high enforcement workload. It was noted that several businesses have complied with the regulations since receiving notification from the Commission. Mrs. Hill also noted that several institutions were now complying. Mr. Martin thanked them for their voluntary compliance.

Housing Diversity Discussion: An outline reviewing the Commission's previous discussions was discussed and is attached to the minutes. Mr. Martin noted several months ago the Commission had decided to wait for input from the Housing Diversity Committee before moving forward on this issue. He recently spoke with Mr. Fairbairn, committee chairman, however, who informed him that while the committee strongly supports measures that would increase housing diversity in Town, its main focus is on Town supported affordable housing. Mr. Martin said there had been some support for age restricted senior housing as a way of limiting possible unintended consequences of allowing multifamily units. Several commissioners, however, had voiced a preference that the market place decide who would live in these units. He noted that the best way to handle unintended consequences is by limiting the number of units that could be permitted. He proposed to begin the discussion by suggesting the maximum number of multifamily units per project be limited to 12 in the residential districts and 24 in commercial districts, noting the Commission had previously approved 11 units in New Preston, 12 units of affordable senior housing in Riverwoods, and 14 units in Dodge Farm, all of which had been in residential districts and were able to be assimilated into their surrounding neighborhoods. Mr. Owen suggested the Commission begin by first permitting multifamily units only in the commercial districts to see what the consequences would be before allowing them in the residential districts. Mr. Martin noted this would be in keeping with recommendations in the Plan of Conservation and Development, which call for housing diversity priority in or near the village centers. Mrs. Friedman agreed with Mr. Owen, saying property owners in the residential districts had purchased their homes in part because they liked the appearance of their neighborhoods and so she was concerned about the potential for multifamily developments in the residential areas of Town. She said she was more concerned with appearance than she was with traffic impact. Mr. Shapiro thought any new regulation should

ensure multifamily units would be located throughout Town and not concentrated in any one area. Mr. Abella thought 24 units was too many, even if restricted to the commercial districts. Mr. Owen suggested in addition to beginning with the commercial districts, the Commission should study whether these districts could be reconfigured to slightly expand them. Mr. Fitzherbert liked the idea of multifamily options in the commercial districts due to the ease of pedestrian access, and agreed with Mr. Owen that the current size of these districts would be very restrictive. Mr. Charles pointed out another way to control the size of multifamily developments would be based on the septic requirements. He said anything more than 5000 gallons per day (33 bedrooms) must be approved by the DEP rather than the local Health Department. He suggested clustering of single family units be included in any revisions. Mr. Martin pointed out that if multifamily units were allowed only in the commercial districts, applications for developments in residential districts could still be made under the Affordable Housing Appeals Act, and the Zoning Commission would have no control over them. He suggested the transition zone adjoining the Marbledale District, which was proposed in the Plan of Development, might be a suitable area in which to allow multifamily housing. Mr. Sears noted in reality the potential build-out in the existing business districts is very limited and asked the Commission to consider the issue of density as it affects affordability. Mr. Owen thought flexibility in density, setbacks, etc. would be needed in the village centers. Mr. Fitzherbert said that locating units in the commercial districts would help to keep them affordable. It was noted that when the Elsworth apartments and 16 Church Street units are certified by the state as affordable, the Town will have over 2% affordable units and may become eligible for a 4 year moratorium period during which local land use regulations would have jurisdiction over multifamily development applications. The Commissioners discussed what cap should be put on the number of units to be permitted per project and whether a percentage should be required to be reserved as affordable units. An informal poll was taken. All present except Mr. Owen, who was neutral, supported the concept of taking a first step to permit multifamily units by Special Permit in the business districts only; a total size limitation of 33 bedrooms and 30% of the units set aside as affordable. Also, all agreed there should be no age restriction set. Based on the above informal consensus, it was decided to begin the process of drafting regulations.

Enforcement

First Washington Capital, LLC.(Matthews)/89 Lower Church Hill Road/Site Preparation for Single Family Dwelling: Mr. Ajello, Enforcement Officer, reviewed his 11/22/04 ZEO report on this matter. Site work had begun before a zoning permit had been applied for and continued after he had ordered that it stop. A Cease and Desist Order had then been issued on 11/19/04. Mr. Martin read the 11/22/04 report, which stated that Mr. Ajello has declined the decision making responsibility on this matter because he was already involved in the enforcement proceedings for this property. Mr. Martin noted that this was a good policy because the Enforcement Officer would be able to avoid the appearance of any prejudice or conflict of interest. He commended Mr. Ajello for his discretion and judgment.

MOTION: To have the Zoning Commission accept, for the reasons cited in the ZEO's 11/22/04 report, the responsibility for decision making on the application submitted for the property at 89 Lower Church Hill Road to construct a single family dwelling. By Mr. Martin, seconded by Mrs. Friedman, and passed 5-0.

Mr. Ajello briefly discussed the application. He noted it was deficient because: 1) the property owner's name on the application did not match the owner's name on the Town Land Records, 2) the application was not signed, 3) there was no agent authorization, and 4) the site plan was inadequate. Mr. Martin noted there was a great deal of public interest concerning the application due to the proposed location of the house, which was proposed for a promontory overlooking Steep Rock, possibly located on or near an archeological site. He hoped Mr. Matthews would work with the Commission to mitigate the environmental impacts of the proposed development. Mr. Martin noted the

previous property owner had been required to obtain an Inland Wetlands permit for proposed work and asked Mr. Ajello to find out whether that Commission had jurisdiction in this case as well.

Other Business

Revision of the Zoning Regulations/Section 12.14/Generators and Other Noise Generating Equipment: Draft language was circulated, which would allow noise generating equipment, by Special Exception, under specific circumstances, to be situated farther from the structure principally served than is currently permitted. The draft is attached. After the Zoning Commission has amended its Regulations, the Zoning Board of Appeals would then develop a set of standards by which each application for a Special Exception would be judged. After a brief discussion, the only change made to the draft was that the word, "negative," was deleted from Section 12.14.5. A public hearing was scheduled for 7:30 p.m. on January 24, 2005 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Boundary of New Preston Business District/10 Main Street: The Bakers, owners of 10 Main Street, New Preston, submitted an A-2 survey map, "Property/Boundary Survey," by Mr. Alex, revised to 11/19/04 to show that the New Preston Business District boundary line does not go through this property and that the property is entirely within the business district. It had previously been classified as residential because it had been thought that the district boundary divided the lot. It was the consensus of the Commission to accept the map as correct because it was an A-2 survey and because it was sealed by a licensed surveyor.

MOTION: To accept the location of the New Preston Business District boundary as shown on the A-2 survey entitled, "Property/Boundary Survey," revised to 11/19/04, and signed by Mr. Michael Alex. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

2005 Calendar

MOTION: To approve the 2005 Calendar as proposed. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

Update of Assessor's Map: Mrs. Friedman asked when this work would be completed. Mr. Martin said Mr. Sears had informed him that Mrs. Johnson would finish the project soon after the first of the year.

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

Mr. Martin adjourned the meeting at 10:10 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Coordinator