

November 22, 2010

Present: David Owen, Lou Abella, Ralph Averill, Ray Reich, Gary Fitzherbert

Alternates Present: Andy Shapiro, Harry Wyant

Absent: A.J. Dubois

Staff Present: Janet Hill, Shelley White

Others Present: Mr. Parker, Mr. Frank, Ms. B. Cheney, Mr. & Mrs. Boyer, Ms. Federer, Ms. Klauer, Mr. Klauer, Mr. Szymanski, Atty. Fisher, Mr. Sabin, First Selectman and Mrs. Lyon, Ms. Purnell, Mr. & Mrs. Solomon, Ms. D. Forese, Ms. Giampetro, Mr. Collum, Mr. Williams, Mr. Dutton, Mr. Talbot, Mr. D'Agosta, Mr. Ebner, Mr. Hileman, Selectman Solley, Mr. Monteleone, Mr. Peterson, Mr. Stockwell, Mr. Mustig, Ms. Verstandig, Mr. & Mrs. Peacocke, Residents

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

PUBLIC HEARINGS

Seated: Mr. Owen, Mr. Averill, Mr. Fitzherbert, Mr. Abella, Mr. Reich

Revision of the Zoning Regulations/Section 13.10.3: Deletion of minimum apartment size under Residential Conversion of Older Homes:

Mr. Owen read the Legal Notice published in Voices on November 10 and November 17, 2010 and then read the list of contents that are in the file for this application. Mr. Owen gave a brief history regarding this revision. Mr. Hileman stated that he feels this revision would be inconsistent with the other regulations that allow apartments. He asked why this section would not have a minimum square footage requirement but the other regulations relating to apartments do. He stated that maybe all the square footage requirements for apartments should be eliminated. He stated that it would be harder to have an apartment in the Village Center than it would be for the conversion of an older home and he feels this goes against the goals of the Town's Plan of Conservation and Development. Mr. Owen read the motion from the Planning Commission Meeting of October 6, 2010, stating that it approved this revision. Mr. Solley asked if the Commission spoke to the Building Department regarding this issue. He stated that one bedroom could be made into a studio apartment and this would bring up problems with fire safety and parking. Mr. Owen stated that the Building Department requirements would have to be followed. He stated that Mr. Hileman or any other resident could petition the Commission to revise the other regulations concerning apartments and their square footage requirements.

Motion:

to close the Public Hearing to consider the Revision of the Zoning Regulations/Section 13.10.3:Deletion of minimum apartment size under Residential Conversion of Older Homes,
by Mr. Fitzherbert, seconded by Mr. Abella, passed by 5-0 vote.

Revision of the Zoning Regulations/Proposed new sections 4.4.19 and 21.1.69 to permit Summer Camps by Special Permit in the R-1 District and Definition of Summer Camp:

Mr. Owen read the Legal Notice published in Voices on November 10 and November 17, 2010 and then read the list of contents that are in

the file for this application. Mr. Owen read the October 6, 2010 Planning Commission Minutes regarding this revision and the Planning Commission's resolution which states that they were not in favor of this revision. Mr. Abella stated that the Planning Commission's concerns are worth considering. Mr. Averill stated that he agreed with Mr. Abella and was not in favor of passing this revision. Mr. Reich stated that he was not in favor of this revision. Mr. Owen stated that the Commission could work on the language that they have and address the concerns of the Planning Commission or create a regulation that would allow the expansion of a non conforming use by Special Permit, which Atty. Zizka has suggested. Mr. Solley stated that he doesn't understand why the Zoning Commission would let the request of the one camp in Town result in a regulation that would allow camps in the entire residential district. Mr. Owen stated that the Zoning Commission looks at the Regulations and considers revisions that would allow a successful use in Town to continue. The Commission agreed to close this Public Hearing and work on the revision or addition of language in the regulations regarding Summer Camps. There were no further questions or comments from the Commissioners or the public.

Motion:
to close the Public Hearing to consider the Revision of the Zoning Regulations/ Proposed new sections 4.4.19 and 21.1.69 to permit Summer Camps by Special Permit in the R-1 District and Definition of Summer Camp,
by Mr. Abella, seconded by Mr. Averill, passed by 5-0 vote.

Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Section 4.4.10/School:

Mr. Owen read the list of contents added to the file as of the last Public Hearing on Monday, November 15, 2010 including two letters submitted by residents at this meeting. Mr. Klauer read his statement dated 11-22-10 (on file in the Land Use Office). He stated that Wykeham Rise submitted a revision that includes a wider arc on the eastern driveway based on the Inland Wetland Commission's request. He addressed Commissioner Averill's four concerns regarding Wykeham University's academic calendar, academic policy, more information regarding the mission statement, and curriculum.

Mr. Szymanski, Engineer, stated that the proposed plan originally showed removal of a woodland buffer west of the tennis courts and as per the suggestion of Land-Tech this buffer would remain. He stated that the proposed plan was revised to show planting of more evergreens that would provide a continuous buffer throughout. He referred to the letter he submitted addressing the Zoning Commission's questions regarding the Proposed Pond Access and ADA Review, dated 11-22-10 (on file in the Land Use Office). He confirmed that the existing access off of Bell Hill Road would be removed and restored. He stated that the access to Pond #1 would be constructed of grass pavers with a grade of approximately 15% and that the grass pavers would not be counted as lot coverage. He stated that he consulted with Mr. Scott Yates, Licensed Architect, and determined that the site is compliant with respect to ADA requirements. Mr. Jenks, Building Official, will perform a full review to verify compliance regarding ADA requirements. Mr. Owen confirmed that after consulting with Attorney Zizka it was determined that grass pavers would not be part of the lot coverage calculation.

Mr. Averill asked for confirmation that there will be no faculty or administrative staff housing on the site.

Mr. Klauer confirmed that there would not.

Mr. Peacocke read his submitted statement dated 11-22-10 (on File in the Land Use Office). He stated that "the Commission needs to be satisfied that there is a serious plan for University courses at the proposed institution," and that "only criteria and conditions that have been

clearly formulated in advance can be enforced,” and that the Commission must “formulate those criteria and conditions” before making a decision on this application. He proposed that the Commission establish at least two conditions as to when a student would be provided the option of accommodation:

1. “that overnight accommodation be available only to students taking courses which span more than one day;” and
2. “that accommodation is available only to students attending courses for at least three hours a day on average on weekdays during the duration of the student’s stay in the accommodation.”

He stated that without these conditions it is just an inn and the courses are an excuse to stay.

Mr. Talbot, Architect, read his statement to the Zoning Commission dated 11-22-10 (with attachments. On file in the Land Use Office). Mr. Talbot stated, that in his opinion, that each of the proposals submitted for this property in the past two years would be acceptable “uses for the property as long as they are legal, safe, appropriately scaled and do not put undue burdens on the Town and surrounding community, now or in the future.” Mr. Talbot suggested that the Zoning Commission postpone this Public Hearing on the grounds that the applicant has not submitted a “Letter of Technical Feasibility” which is part of the Connecticut DEP Process, and therefore the application is incomplete. He stated that “certification from an engineer with experience designing and permitting of DEP septic systems” should be required to confirm that the existing septic system would work for the proposed plan. Mr. Talbot submitted a document prepared by the applicant’s architect, SB Architects, entitled 100% Pre-Concept, dated 5-15-08 (on file in the Land Use Office). Mr. Talbot stated that the map entitled “Existing Conditions” on page two shows that the reserve septic area is in a no-build zone. He stated that these issues should be addressed before the Town Commissions spend anymore time reviewing this proposal. He feels that if revisions were required in order to comply with DEP regulations the applicant would be required to resubmit to the Zoning Commission and the Inland Wetlands Commission.

Ms. Verstandig read her statement to the Zoning Commissioners (no date, on file in the Land Use Office). Ms. Verstandig stated that she is favor of the proposed Wykeham University and that she is “thrilled about the possibility of having a post graduate educational facility in our town.” She stated that research shows “that the longer people learn, the longer they lead healthy lives.”

Ms. D. Forese stated that she was excited at the prospect of an adult education facility in Town and that the property will continue to be used as a school.

Ms. Mathews submitted a letter of support for the proposed Wykeham University (no date, on file in the Land Use Office). She stated that she is a real estate agent and has been worried about the future of this property. She stated that she has worked with buyers that have expressed concern about the condition of the property and declining conditions of the buildings and that is negatively affecting the neighborhood. She stated that this “property has been a school for nearly 100 years and the current owners are continuing this tradition.” She stated that she feels the Zoning Commission should not turn down the proposal and that it would rejuvenate the property and benefit the community.

Mr. Mustig stated that he is a real estate broker and that he was looking forward to the proposed school. He stated that he wanted to remind the neighbors of 101 Wykeham Road that they bought their houses “next to a school not a bird sanctuary.” He stated that this proposal is “the right plan at the right time.” He stated that the Town might end up with something they do not like at the property.

Ms. Purnell submitted a statement with attachments dated 11-22-10 to the Zoning Commission. She read her statement which addresses the

applicant's comments on the Special Permit Standards analysis chart that she compiled and submitted at the last Public Hearing. She stated that she stood by the observations she made regarding the Town's Plan of Conservation and Development and that "there is no further evidence to support the assertion that all relevant objectives were "exhaustively studied" as the applicant claimed. Ms. Purnell stated that Land-Tech has "been limited in their review by the questions that are asked of them, the time they have available and the money that the applicant is willing to pay for their review." She stated that it would be a Land-Tech would be put in a difficult position if they were required to monitor this site during construction. She stated that it is "difficult to ascertain the visual impact of Wykeham University's main building since the only drawings are at different scales and not one viewshed analysis has been generated." She stated that she would be in favor of an educational institution if she did not believe that the natural resource impacts would be to the extent that she believes and that the proposal was scaled appropriately.

Mr. Stockwell, Roxbury resident, read a letter to Mr. and Ms. Klauer, dated 11-19-10, from Carolyn V. Klemm (on file in the Land Use Office) stating that she and her husband support the proposed plan for Wykeham University.

Mr. Boyer asked if the applicant would be applying for a liquor license and if the students registered at the school be allowed to bring liquor to the dining room. Mr. Owen stated that he believed that there was a Connecticut State Statute that does not allow liquor at schools.

Ms. Federer stated that she would like to look at the revised proposed planting plan. Mr. Sabin, Landscape Architect explained the revisions of the drawing entitled Planting Plan, for Mathew Klauer, with revision date of 11-17-10, sheet PL-1 (on file in the Land Use Office). Mr. Sabin stated that the revision to the proposed planting plan depicts a more strategic placement of conifers. He stated that the conifers would be placed to effectively screen the buildings. Ms. Federer stated that the proposed plan stated does not state the size of the trees. Mr. Sabin stated that the conifers would be 10-12 foot trees. Ms. Federer asked how long it would take for a 10-12 foot tree to grow to provide adequate screening. Mr. Szymanski stated that a viewshed analysis was performed with the previous application and that the conifers will provide significant screening of the structures so that, from the Federer property, one could only see the tops of the structures initially and full screening over time.

Ms. Federer stated that she would like to remind the Commission that there is a Deed Restriction of 5 acres located at the southern portion of the property and in accordance with "Connecticut State Statute 47-42.d, the Commission cannot approve a Special Permit that would be in violation of the deed restriction and any building in this area would be in direct violation of the Deed Restriction." She stated that the she and the applicant have differing opinions in this matter, which would be appealed in the Supreme Court. Mr. Owen stated that the Town's Attorney has advised the Commission that the Deed Restriction is not valid and the Commission should continue with this application. Ms. Federer stated that he was incorrect.

Ms. Solomon looked at the Planting Plan, sheet PL-1. She stated that it would take many years for the trees to mature to provide adequate screening.

Ms. Giampetro submitted a statement and photographs of the existing property to the Zoning Commission, dated 11-22-10 (on file in the Land Use Office). She stated that the saplings would not provide enough screening for many years, that Kirby Brook would be compromised and that the topography in the area would allow sound to travel "across the valley to all the houses in the neighborhood." Ms. Giampetro stated the main problem she has with this proposed plan is the size and scope. Ms. Giampetro presented her photographs to the

Commissioners.

Mr. Parker displayed an elevation drawing of the proposed main building. He stated that the main issue is the size of the proposed plan. He stated he wanted to remind the Commissioners that with the previous application the applicant included elevation drawings with scale markings and a list of occupied square footage and this is not supplied in the current application for Wykeham University. He gave an estimate of proposed square footage of the main building and compared it to his house that is in the neighborhood. Mr. Parker stated that he does not believe this application is complete.

Mr. Solomon read his submitted statement dated 11-22-10 (on file in the Land Use Room). He stated, "schools with unknown demand appropriately start smaller and then look to expand as enrollment increases." He stated that he feels that the applicant has elected to ignore the parking problem and that the proposed plan is too large and will need more parking. He stated that this would be difficult as the proposed plan is close to the lot coverage limit at 9.94%. Mr. Solomon stated that the applicant has not addressed the Zoning Commission's concerns of the previously denied application for an inn on this property and that the landscaping plan will not provide enough screening.

Mr. Owen asked if the applicant could explain the contours on the drawing. Mr. Szymanski stated that in regards to preserving the natural resources, the proposed plan is on a 26.9-acre parcel. Twelve acres will remain untouched. He stated that adverse impacts do exist on the property and the proposed plan removes these. Mr. Szymanski stated that he believes the topographic calculations that were submitted with this application are correct. He stated that the USGS elevations were not used and explained how the figures were calculated. Mr. Szymanski stated that the lot coverage for this proposed plan is lower than the previous application for the inn and that the calculation of 9.94% includes ½% of grass pavers. Mr. Szymanski addressed the other concerns that the residents had expressed.

Mr. Klauer read his closing statement dated 11-22-10 (on file in the Land Use Office). He reminded the Commission that the school has never been used as a residential property and that it has always been a school. He stated that in 2004, the Commission approved a population of 200 adult students. He stated that the POCD stated that these expansions are appropriate and "should be encouraged in order to maintain the high functioning and productive educational institutions in our community." Mr. Klauer stated that the proposed plan "calls for architecturally sensitive buildings to be built much further from away from the road." He closed his statement by providing examples as to how this proposed school would benefit the Town of Washington.

Mr. Reich asked Mr. Klauer to clarify his statement regarding the Zoning Commission approval in 2004. Mr. Klauer stated that the Learning Collaborative applied to Zoning for a school at 101 Wykeham Road and was approved in July 2004, unanimously, for a school with the condition that the population would be approximately 200 students. Ms. Hill stated that there was no new construction for the Learning Collaborative application.

There were no further question or comments.

Motion:

to close the Public Hearing for Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Section 4.4.10/School,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote

Mr. Owen stated that the Zoning Commission could not act on this application until the Inland Wetlands Commission has acted on the application. 9:40 - The Commission took a break.

REGULAR MEETING

9:45 – Meeting continues

Consideration of the Minutes

The minutes of the October 25, 2010 Zoning Commission Meeting were considered.

Corrections:

Page 1:

Under 1st Motion, should read: to close the Public Hearing for the Public Hearing....

Page 2:

Under Petition to Amend the Zoning Regulations/Section 13.8, 21.1.24 and New Section 12.17/Excavation:

2nd to last sentence should read: Mr. Owen stated that he did not think the Zoning Commission was ready to adopt a regulation based on the petition submitted and that further research regarding excavation is necessary.

Page 3:

On 2nd paragraph, 5th sentence, should read: He stated that they would be clustered along the buildings, which would be screened from sight of neighboring properties.

Page 6:

Paragraph beginning with “Mr. Rogness displayed”....11th sentence should read: He asked the applicant to submit a complete landscaping plan and four-sided elevation drawings of the Main Building. Page 7:

Same paragraph, 2nd to last sentence should read: Mr. Owen stated that a school is permitted in the R-1 Zone and schools have traffic.

Page 8:

Under Petition to Amend the Zoning Regulations/Section 13.8, 21.1.24 and New Section 12.17/Excavation:

1st sentence should read: Mr. Owen stated that he felt that this proposed amendment to the Zoning Regulations seems to create more ambiguity and potential problems with enforcement.

Motion:

to accept the Zoning Meeting Minutes of October 25, 2010, as corrected,
by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Pending Application(s)

Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Section 4.4.10/School:

The Commissioners agreed to look at the materials submitted this evening and discuss it at the next regular Zoning Commission Meeting on

December 27, 2010 at Bryan Memorial Town Hall. Mr. Owen stated that the Zoning Commission could not act on this application until the Inland Wetlands Commission makes their decision. Mr. Averill asked if the Zoning Commission must follow Attorney Zizka's advice at all times. Mr. Owen stated that he would pose this question to Attorney Zizka.

New Application(s)

Robinson/93 Nettleton Hollow Road/First Cut

Ms. Hill stated that the applicant has met all the requirements.

Mr. Owen read Mr. Ajello's ZEO Report dated 11/22/10 regarding this application. Atty. Fisher submitted the mylar for this property. There were no further questions or comments from the Commissioners.

Motion:

to approve First Cut for Robinson/93Nettleton Hollow Road,
by Mr. Owen, seconded by Mr. Abella, passed by 5-0 vote.

Motion:

to add subsequent business to discuss whether the December Meeting date should be changed,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote.

Discussion of date of Zoning Commission December Meeting:

Mr. Fitzherbert stated that it may be more convenient for the Commissioners to have the meeting on December 20th. The Commission discussed who would be available for the scheduled December 27th Meeting. Most Commissioners would be able to attend. It was agreed to keep the meeting on December 27th as scheduled.

Dobson/217 New Milford Turnpike/Special Permit:10.4.1/Sign:

Mr. Owen read the ZEO Report dated 11-22-10 regarding this application. There was a brief discussion as to whether the applicant would be able to do the things necessary to obtain a Certificate of Zoning Compliance. Ms. Hill stated that the Commission has 65 days to schedule a Public Hearing. There were no further questions or comments from the Commissioners.

Motion:

to schedule a Public Hearing on December 27th at Bryan Memorial Town Hall, to consider the application for Dobson/217 New Milford Turnpike/Special Permit: 10.4.1/Sign,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote.

Other Business

Revision of the Zoning Regulations/Section 13.10.3/Deletion of minimum apartment size under Residential Conversion of Older Home:

There were no further comments from the Commission.

Motion:

to approve the Revision of the Zoning Regulation/Section 13.10.3/Deletion of minimum apartment size under Residential Conversion of Older Home,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote.

Revision of the Zoning Regulations/Proposed new sections 4.4.19 and 21.1.69 to permit Summer Camps by Special Permit in the R-1 District and Definition of Summer Camp:

Mr. Owen stated that he feels the Commission has two options: 1. To do something like what the Commission did with Golf Courses, or 2. To adopt a regulation that would cover all non conforming properties to make it possible for a non conforming use. The applicant would apply to the Zoning Commission, for whatever circumstances, under the Special Permit Regulations, for the non conforming use. The Commission briefly discussed defining 'Summer Camp' and existing non conforming use. Mr. Owen stated that he would work with Attorney Zizka on the language.

Sample Regulations re: Excavation:

Ms. Hill distributed sample regulations from other towns. Mr. Owen suggested that the Commissioners look at and think further as to what the Commission would like to do regarding these regulations.

Political Signs:

Mr. Owen stated that residents have suggested that there should be a regulation limiting the period of time political signs are out and their size. Mr. Owen stated that he didn't believe that the Town could limit residents' ability to express their opinion. Mr. Averill stated that he believed the Town could do something about the size of the signs.

Privilege of the Floor

Mr. Ebner stated that the Commission may want to look into the American Camp Association, which is the accrediting agency for summer camps, to clarify the definition of 'Summer Camps'. He stated that this his camp is accredited by this association. There was a brief discussion regarding the accreditation process for summer camps. Mr. Ebner stated that there is also the Connecticut Camp Association. Mr. Owen stated that this could help with the definition by requiring this accreditation. He stated that it may also satisfy the Planning Commissions concerns. Mr. Ebner stated that the camp must be licensed by the State of Connecticut. There was a brief discussion regarding the difference between a camp and a campground. Mr. Owen stated that the Zoning Commission would be able to prevent things such as paint ball camps and skeet shooting through the Special Permit process.

Motion:

to schedule a Public Hearing on January 24, 2011 at Bryan Memorial Town Hall, to consider the Revision of the Zoning Regulation(s)/Proposed new section 4.4.19 and 21.1.69 to permit Summer Camps by Special Permit in the R-1 District and Definition of Summer Camp,

by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Communications

Ethics Workshop 11/30/10:

Mr. Owen reminded the Commissioners that the Ethics Workshop sponsored by the Planning Commission would be on Tuesday, November 30, 2010 at 6:00 to 8:30 pm.

Enforcement

The Commission briefly discussed the ZEO report dated November 22, 2010 (on file in the Land Use Office). Mr. D'Agosta was present to speak about the Zoning Violation at 87 New Preston Hill Road. Mr. Owen read the ZEO Report dated 11-22-10 regarding this issue. Mr. D'Agosta stated that the farm receives truck deliveries often with supplies for the property. He confirmed that he is not running a business on this property.

Adjournment

Motion:

to adjourn at 10:32 pm.

by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk,