

November 25, 2002

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

ALTERNATE PRESENT: Mr. Abella, Mr. Brinton

ALTERNATES ABSENT: Mr. Shapiro

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mrs. O'Rourke, Mr. Cannavaro, Mr. Sears, Ms. Leavitt, Mrs. Tracy, Atty. Alexander, Mr. Charles, Mr. Frenkel, Mr. Shannon

Mr. Martin called the meeting to order at 7:32 p.m. and seated Members Fitzherbert, Friedman, Martin, Owen, and Page.

Consideration of the Minutes

MOTION: To accept the 10/28/02 Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Pending Applications

Cass-DePecol/46 June Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mrs. Hill reported the Inland Wetlands Commission had referred the application to Land Tech Consultants for a review of the driveway plans and that Zoning concerns had been included in the referral letter. As the Inland Wetlands Commission had not yet approved the application, a public hearing was not scheduled.

Beck/132 Calhoun Street/First Cut

Mrs. Hill noted Health Department and Inland Wetlands Commission approvals had been obtained and she had calculated the driveway grade for the rear lot would be less than 15%. There were no outstanding issues.

MOTION: To approve the application submitted by Mr. Beck for a first cut at 132 Calhoun Street per the map, "Site Development Feasibility Plan," by Mr. Neff, revised to 7/16/02. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

New Applications

New Preston Congregational Church-AT&T Wireless/15 Church Street/Special Permit: Section 13.19/Personal Wireless Service Facility

Mr. Martin informed the Commissioners that Atty. Zizka has recently advised that the Zoning Commission, not the Ct. Siting Council, has jurisdiction over this application because the facilities are proposed within an existing structure. The Commissioners read the letter from

Atty. Zizka dated 11/22/02, which explained this opinion. Mr. Martin noted it had been pointed out during AT&T's preliminary discussion that this proposal would not comply with all the requirements of the Zoning Regulations and so if it was to be approved, revisions to the Regulations would be needed. He said the Commission had not gone ahead on its own to work on revisions because until recently it had been advised that the application would be under the Siting Council's jurisdiction. He said the most appropriate way to handle this now would be for the applicant to petition to amend the Regulations. He advised Atty. Alexander, who represents AT&T Wireless, that if a petition was received at the December 16th meeting, there would be adequate time to meet the notice requirements and hold a public hearing at the January meeting. He also noted that due to time constraints and notice requirements under the state statutes, the wireless application might have to be withdrawn and resubmitted if/when the Regulations are revised. Mrs. Friedman clarified there would be two hearings required, one for the proposed change to the Regulations and the second for the wireless application should the changes be approved. Atty. Alexander was given a disc with the current Zoning Regulations as Mrs. Hill had previously provided him with an outdated copy of the Regulations. Mr. Martin noted that the Zoning Commission's policy was to provide anyone with a disc of the Town's Zoning Regulations for free since the cost of creating the disc was nominal.

Atty. Alexander proposed a brief presentation of the application. Mr. Martin declined saying any substantive discussion should take place during the required public hearing when all interested parties had received proper notification.

Mrs. Hill returned the application fee to Atty. Alexander because the checks were made out for the wrong amount and said the application was incomplete until the correct fee was submitted. Atty. Alexander said he had received a letter regarding the application fee from Atty. Zizka and said he had a problem with application fees being used as a way to levy taxes. Mr. Martin said he would leave this matter to Atty. Zizka and the applicant to resolve, but added that no matter what the fee was, the Town has an ordinance that allows the Commission to charge the applicant for any costs in excess of the application fee. He also indicated that the application would not be considered complete until the agreed upon fee was submitted.

Mrs. Tracy asked when the public would be able to speak about the proposed revisions to the Regulations and the application. Mr. Martin said the public would have the opportunity to speak at both public hearings.

Mr. Frenkel complained that the public was not receiving enough notice to prepare for the upcoming hearings. Mr. Martin advised him all the notice requirements in the state statutes would be met. Mr. Frenkel then complained there was the appearance of impropriety because the Commission had given the disc of the Zoning Regulations to the applicant but had not provided him with one. Mr. Martin noted the Zoning Regulations are a matter of public record. Mr. Owen noted the Regulations are on the Town website and can be downloaded by anyone. Also they are always available at the Land Use Office. When Mr. Frenkel continued to complain, Mr. Martin said he would be happy to provide him with a disc either tonight or the next morning at his convenience. (Note: Mr. Frenkle never came in for the disc.)

Washington Montessori School-Washington Community Housing Trust/16 Church Street/Special Permit: Section 13.15/Town of Washington or Non Profit Sponsored Affordable Housing

It was noted the Health Department had approved the septic plans and the Selectmen had approved the proposed driveway. Mr. Talbot indicated the Inland Wetlands Commission had been given a copy of the latest plans to review.

A public hearing was scheduled at 7:30 p.m. on Monday, December 16, 2002 in the Main Hall, Bryan Memorial Town Hall.

Mr. Shannon stated he represents a group of residents and requested 45 minutes for a presentation at the hearing. Mr. Martin advised him he would have all the time he needs, but to please minimize redundancy. Mr. Owen noted comments to the Zoning Commission should focus on the Regulations and matters over which the Commission has jurisdiction. Mr. Martin said the Commission would apply the eight standards listed in Section 13.1.B when evaluating the application and said a summary of these standards would be posted at the public hearing. Mr. Martin described the public hearing procedure and said if there was not enough time to give everyone an opportunity to speak, the hearing would be continued to January. He also noted the Commission usually takes time to evaluate complicated applications and does not act on them the same evening the hearing is closed. Mrs. Friedman and Mr. Fitzherbert asked Mr. Shannon to submit a list of the people he represents. He was also advised to coordinate any equipment requirements with Mr. Gueniat, custodian. Mrs. Hill asked for copies of any material to be presented before the hearing so she could make copies available for the Commissioners.

Other Business

Communications

Copies of the draft testimony to be given by Atty. Zizka at the Siting Council's hearing on the New Milford Sprint application were circulated. It was noted copies were also provided for Mrs. Luckey, Mrs. Payne, and Mr. Markert.

Privilege of the Floor

Mr. Fitzherbert asked for the moment that he be considered a member of the public and be given the privilege of the floor. He then stated for the record that Mr. Frenkel's earlier comments that the Commission had acted improperly because it gave a disc of Zoning Regulations to AT&T's attorney were extremely inappropriate and showed a lack of knowledge about the availability of the Regulations and the procedures followed by the Commission. He thought Mr. Frenkel's comments were uncalled for.

Zoning Regulations

Mr. Owen reported he had reformatted the Zoning Regulations for the Internet so they will be easier for Mrs. Hill to work with and for the public to search on the website. Mr. Martin expressed his appreciation for all the work on the website done by Mr. Owen and Mr. Swain.

Revision of the Zoning Regulations/Section 17

Mr. Abella reported he and Mr. Shapiro had reviewed the Litchfield regulations and that Mr. Shapiro had researched other towns' regulations, and they had concluded Litchfield's were good. He noted these included percentage limitations on approvals. Mrs. Friedman noted a great deal of thought would have to be put into figuring out what the maximum percentage should be because once it was established, it could not be exceeded. In general, it was reconfirmed that because the ZBA had tightened up on hardships, it would be beneficial for the Zoning Commission to provide some flexibility for nonconforming structures and properties. It was noted that the Zoning Commission could create Special Exception regulations, which could provide the ZBA a fair amount of discretion without setting maximum

percentages as long as specific criteria were established. It was agreed to consult with Atty. Byrne about drafting revised regulations.

Revision of the Regulations/Section 14

Mr. Martin noted no further work had been done on this section due to the Commission's full agenda.

Plan of Conservation and Development

Mrs. Friedman gave a brief report on the last meeting. Topics discussed were affordable housing, the percentage of open space that should be required for subdivision applications, transfer of development rights, protecting the Lake Waramaug watershed, village centers, and making setback requirements a function of size of the structure, distance from the road, and grade of the land. The Zoning Commission thought the old Town Garage site and Town storage problems should be addressed in the Plan. The next Special Meeting will be held on Tuesday, December 17 from 4:00 to 6:00 p.m. The Zoning Commission is invited.

2003 Calendar

Copies of the proposed 2003 Calendar had been mailed to the Commissioners.

MOTION: To accept the 2002 Calendar as presented. By Mrs. Friedman, seconded by Mr. Fitzherbert, and passed 5-0.

CL&P Flood Lights Along Rt. 202, Marbledale

Mrs. Hill reported CL&P had redirected the floodlights along Rt. 202. The representative she spoke with said additional improvements could be made if necessary if the Commission submitted the pole numbers of the offending lights. Shields could be installed on these lights, but it would not be an easy task as there were no standard fixtures and shields were not kept in stock. Mrs. Friedman said she had recently driven through Marbledale at night and thought there had been an improvement. Members were asked to inspect the area prior to the next meeting. Mr. Martin recommended that Mr. Chapin's replacement at CL&P be sent a copy of the 5/20 letter to Mr. Breitweiser regarding the Commission's preference for minimum wattage, placement of light fixtures as low as possible, light fixtures directed downward and towards the property, and installation of shields or visors on floodlights.

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

Mr. Martin adjourned the meeting at 9:32 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, ZEO

