

November 28, 2005

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

MEMBER ABSENT: Mr. Owen

ALTERNATES PRESENT: Mr. Abella, Mr. Shapiro, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Fredlund, Mr. Charles, Mr. Boling, Mr. Sears, Mr. Gitterman, Mr. Solley, Mrs. Anderson, Mr. Worcester, Mr. Brigham, Residents

Mr. Martin welcomed new Commissioners Averill and Wyant.

PUBLIC HEARING

Town of Washington/10-12 Blackville Road/Special Permit: Section 4.4.9/Facilities of the Town of Washington/Garage and Driveway Extension

Mr. Martin called the public hearing to order at 7:30 p.m. and seated Members Averill, Fitzherbert, Friedman, and Martin and Alternate Abella for Mr. Owen. Mrs. Friedman read the legal notice published in **Voices** on 11/16 and 11/23/05. Mr. Martin read the 10/28/05 ZEO Report.

The map, "Public Works Garage Expansion," by Mr. Howland, revised to 5/17/05, received 11/3/05 was reviewed and a photo showing a building similar to the one proposed was circulated.

Mr. Solley, Selectman, stated the new garage was needed so the Town could vacate the old Town Garage on Titus Road and consolidate road maintenance and construction equipment on one property. The new facility would be used to store equipment that is currently both outside and in the building at the old site. He noted the proposed building would be 40' X 150', smaller than the building shown in the photo, and would have a metal roof and vertical wood siding to match the other buildings. Also, the roof pitch would be lower. He said there would be a single entry door on the side and access through the gable end.

Mr. Fitzherbert asked if the new building would be seen from the road. Mr. Solley responded it would be barely visible due to the existing buffer of trees. He said the Town would add lower softwoods to the buffer for additional screening, as shown in the plan.

Mr. Martin suggested the color of the new building be in harmony with its surroundings. Mr. Solley said it would be. Mr. Fitzherbert thought a muted or environmentally friendly color should be used for both the siding and the roof.

Mr. Shapiro asked what the elevation of the new building would be in relation to the other buildings on site. Mr. Solley stated there was an approximate 72 ft. difference; the elevation of the new building would be 598 ft., while the elevation of the lower lot was 526 ft.

Mr. Martin noted when the Special Permit had originally been granted, a resident who resided on top of the hill off Parsonage Lane, had been the only one concerned about the view of the buildings. Mr. Solley said he had been more concerned about the clearcutting on the hillside and again stated the Town would make every effort to maintain the existing buffer.

Mr. Martin recommended the roof be constructed of non glare materials. Mr. Solley noted the metal roof could be painted and that if asphalt was used it would be non reflective.

It was noted the height of the proposed building was 30 ft. and that this was OK because it was a primary building. Mr. Solley said the height would most likely be between 26 - 28 ft., but would not exceed 30 ft.

Mr. Fitzherbert asked if construction of the new building would result in the closing of the Titus Road facility and the demolition of that garage. Mr. Solley said it would not because there would still be piles of road construction materials housed there. He added the Town was looking for another 2 - 3 acre parcel to house these materials and that demolition of the garage was not included in this application.

Mrs. Friedman asked if there would be outside storage. Mr. Solley said there would, but that it would be no higher than 6 ft. and would be well screened.

Mr. Martin suggested two conditions of approval; that the roof be non reflective and the total vertical height not exceed 30 ft. He said these conditions would be appropriate because usually height and materials are specified in applications submitted to the Commission.

There were no questions or comments from the public.

MOTION: To close the public hearing to consider the

Special Permit application: Section 4.4.9

submitted by the Town of Washington to

construct a garage facility and extend the

driveway at 10-12 Blackville Road. By Mrs.

Friedman, seconded by Mr. Abella, and

passed 5-0.

Mr. Martin closed the public hearing at 8:54 p.m.

This hearing was recorded on tape. The tape is 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 8:54 p.m. and seated Members Averill, Fitzherbert, Friedman, and Martin and Alternate Abella for Mr. Owen.

MOTION: To add the following items to the agenda

under Other Business: IV.C. Ridgeline

Protection and IV.D. Affordable Housing

Appeals Act. By Mr. Martin, seconded by

Mrs. Friedman, and passed 5-0.

Consideration of the Minutes

MOTION: To accept the 10/24/05 Public Hearing -

Regular Meeting minutes as submitted. By

Mrs. Friedman, seconded by Mr. Averill, and

passed 5-0.

Pending Application

Town of Washington/10-12 Blackville Road/Special Permit: Section 4.4.9/Facilities of the Town of Washington/Garage and Driveway Extension: Mrs. Friedman asked if buffering was a specific part of the application and Mr. Martin said it was. It was agreed the two conditions discussed at the public hearing were appropriate.

MOTION: To approve the Special Permit application:

Section 4.4.9 submitted by the Town of

Washington to construct a garage facility

and extend the driveway as submitted per

the map, "Public Works Garage Expansion,"

by Mr. Howland, revised to 5/17/05,

received 11/3/05 subject to the following

conditions:

1. the total vertical height of the garage

shall not exceed 30 ft. and

2. the roof of the structure shall be non

reflective.

By Mr. Martin, seconded by Mrs. Friedman,

and passed 5-0.

Other Business

Revision of the Regulations/Section 16/Signs: Mr. Martin noted the Commission is working to streamline Section 16 and guard against the proliferation of signs in Town without hindering businesses. The latest draft had been referred to Atty. Zizka, but his review had not yet been received. Mrs. Friedman, who had drafted the revisions, noted two issues had been brought to her attention and asked whether the Commission thought additional revisions should be proposed to address them.

o **Washington Park and Rec Commission** - Sign for the Pavilion at the Primary School: Park and Rec would like to place a 3' X 8' sign on the Pavilion, which is located in the R-1 District where a maximum size of 2 sq. ft. is permitted. **The Commissioners agreed that the proposed sign would fall under Section 16.3.1 of the proposed regulations as it was a regulatory sign for the welfare of the general public and, therefore, would be permitted without a zoning permit once Section 16 has been amended.**

o **Business properties with frontage on two roads** - Mrs. Friedman explained a New Preston business with a directory sign on Rt. 202 also wanted a sign on its Main Street frontage to attract pedestrian traffic from the village. She questioned why a portable sandwich board sign as proposed in the draft regulations would not be adequate. Mr. Ajello said there would be no room to put it; it would either be in the state right of way or blocked by the state road guard rail. The Commissioners thought that under the proposed regulations each business would be allowed three signs; one on the building, one free standing or directory sign, and one portable sign. It was felt this provided business owners with adequate flexibility and no further revisions were called for. Mr. Ajello was asked to explain the increased flexibility in the revised regulations to the business owner who wrote the letter.

Revision of the Regulations/Section 13.3: Effective Date: Mr. Martin explained a public hearing had been scheduled for 12/19/05 to update the language of this section pertaining to the effective date of Special Permits. He noted Mr. McGuinness, Director of the NW Ct. COG, had recommended revised wording, which Mr. Martin read in Mr. McGuinness' 11/15/05 memo to the Commission. The Commissioners were given copies of the proposed amendment to review.

Revision of the Regulations/Ridgeline Protection: Mr. Martin said that at the last meeting the Commission had noted proposals to address this issue had gotten increasingly complicated despite attempts to try to simplify the process by narrowing sensitive vistas to ridgelines with high elevations and steep grades. He explained that the Commission wanted to protect ridgelines in a way that would regulate, not prohibit, development. The key is to identify a way to define the most sensitive areas without including too high a percentage of the Town. He said the Commission's highest priority was to protect public views, not views from private properties. He reported he had asked Atty. Zizka whether it would be legally feasible to limit ridgeline protection specifically to those ridges around Steep Rock and Lake Waramaug. He noted that the Conservation Commission was also interested in this idea. Atty. Zizka advised him this was a legally defensible limitation and, in fact, he preferred this approach of specifically designating sensitive areas to the approach of using elevations/slopes. **Therefore, this information will be forwarded to the Conservation Commission with the request that Conservation suggest language for inclusion in the Zoning Regulations for the identification of specific geographic areas to be protected.** Mr. Shapiro was concerned that the ridgeline views in Washington could be seen mainly from the roads, and so this approach might not cover most of the ridges viewed by the public. Mrs. Friedman noted Roxbury was working on the preservation of views from its most traveled arterial and collector roads. Mr. Martin stated this would be more difficult to do in Washington because the topography is so varied. He recommended the Commission start in this limited way, and possibly expand to other areas later. Mr. Ajello thought a Town ordinance might be a better approach because he thought it could be more easily enforced. Mr. Martin responded that ordinances were usually implemented when the activity being regulated went beyond land use, and this did not. This matter could be evaluated again once the specific language of a regulation amendment was created.

Affordable Housing Appeals Act: Mr. Martin stressed this would be a general discussion about public policy under section 8-30g of the state statutes and not about any particular application or site. He explained that when at least 30% of the units in a proposed development are to be certified as affordable housing according to the State of Ct. definition, the entire project may then supercede local zoning regulations. The only pertinent issues would be health and safety. Density, lot coverage, setbacks, and other zoning requirements could be superceded. He noted that the three affordable housing applications approved in the past had been in nonconformity with various sections of the Zoning Regulations, but following state law, the Commission had approved them with conditions and would follow the same procedures for future applications. If an application were to be submitted by a private developer, instead of the Town of Washington or a not for profit organization, this would just be one more zoning requirement with which the application would not comply. Mr. Martin also noted that in the past the affordable housing applications considered were for projects with 100% of the units being affordable. If an application were to be submitted for less than 100% but at least 30% of the units being affordable, as allowed by state law, the Commission would have to address for the first time the issue of a mix of market rate and affordable units on the same site. The Commission would then have to address the issue of comparability of the affordable and market rate units. He said he had asked Mr. Shapiro to research this matter and referred the Commissioners to Mr. Shapiro's 11/26/05 memo, which indicated a lack of clarity of opinion on this subject. Mr. Martin noted there is no requirement for comparability in the state statutes, however, there is ambiguity on this matter in case law.

Mr. Martin noted when the Commission reviews any application, it considers whether the activity proposed is in harmony with the surrounding neighborhood. He explained comparability would ensure harmony within the development as well. The key question, however,

is, exactly what are the guidelines for comparability? For example, 1) comparability could be viewed from the standpoint of simply the exterior of the buildings within the development; or 2) comparability could take into account the size, workmanship, and materials of the units from both an interior and exterior standpoint; and/or 3) comparability could be viewed from the standpoint of the siting of affordable and market units - must they be intermixed within the project or could they be clustered in one location. Mr. Shapiro stated his research indicated comparability had to exist only within each type of housing unit. For example, all detached units had to be comparable whether affordable or market rate, but they did not have to be comparable to any attached multifamily units proposed in the same development. On the other hand, he said Atty. Hollister had clearly stated that both affordable and market rate units had to be dispersed throughout the project. Comparability, he said, could also be applied to access to amenities and services such as a community pool or parking. Mr. Martin noted the criteria for comparability were not as precise as the affordability formula and so it would behoove the Commission to study this issue and to seek a written legal opinion from land use counsel. Mr. Martin said the Zoning Commission needed a practical definition of comparability that the Commission could readily communicate to an applicant. At this point Mrs. Andersen stated some of the requirements of the Affordable Housing Appeals Act. Mr. Sears asked whether the comparability standard must also be met for off site affordable housing. Mr. Martin noted off site housing to meet the 30% affordable units requirement is not permitted under the state statutes. The Commission had decided not to proceed at the present time with multifamily dwelling regulations until after the completion of the Depot study, so this was not now an issue.

New Application

Myfield, LLC / 7 Mygatt Road / Application Under the State Affordable Housing Appeals Act / 10 Dwelling Units

Mr. Martin read the 11/28/05 ZEO Report, which stated the Health Department had not signed off on the application. He noted that typically, the Zoning Commission does not schedule a public hearing to consider an application until the Health Department has approved it. Mr. Boling, the applicants' representative, stated he had reviewed the application with the Town Sanitarian who had indicated it would be quickly approved by the State DPH. He thought if the public hearing were scheduled for 12/19 the DPH would have approved it by then. The unanimous consensus of the Commission was that it was uncomfortable breaking precedent. Therefore, to be consistent, the Commission scheduled the hearing for January 23rd, not December 19th .

Murgio / 21 New Preston Hill Road / First Cut

Mr. Ajello reported there had been no Health Department approval, so the application had not been submitted.

Communications

Mr. Martin noted Ms. Page's 11/16/05 letter to the Commission had been circulated.

MOTION: Resolved: that Cecilia Page has served

the Town of Washington well and faithfully

as a member of the Zoning Commission for the past six years. The Zoning Commission, on behalf of the Town of Washington, thanks her for her excellent service and wishes her well in the future. By Mr. Martin, seconded by Mr. Fitzherbert, and passed 5-0.

Approval of 2005 Calendar:

MOTION: To approve the 2006 Calendar as presented.

By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

Enforcement

Mr. Ajello reported he had contacted several owners about sign violations and would soon address the sign at the deli at 210 New Milford Turnpike. He noted that Oliva's Restaurant had expanded without zoning approval. Mr. Martin said in the past when Doc's and the Chuck Wagon had tried to expand without permits, the Commission had adopted an aggressive enforcement policy. He requested that Mr. Ajello ask Oliva's to confine its operation to only its approved space until the required permits are obtained. Mr. Ajello stated the third matter he will investigate before the next meeting is a complaint that there is a junkyard in the R-1 District.

Commission Organization

Mr. Martin again welcomed Mr. Averill and Mr. Wyant and noted Mr. Shapiro would be on a three month leave of absence beginning in December.

Election of Officers

MOTION: To elect the following slate of officers for a two year term:

Chairman: David Owen

Vice Chairman: Gary Fitzherbert

Secretary: Valerie Friedman.

By Mr. Martin, seconded by Mr. Abella, and

passed 5-0.

Remarks from Outgoing Chairman

Mr. Martin briefly reviewed the provocative applications and proactive revisions to the Regulations that had been considered during his ten years on the Zoning Commission. He also noted three current trends in Town: 1) Whereas in the past Washington's remoteness has been an advantage as far as maintaining its rural character is concerned, the Town has become more accessible. Therefore the Town would have to be more vigilant and rely more on its land use regulations in the future. 2) There is increasing encroachment on the Town's autonomy by both the state and federal government. Free standing cell towers and affordable housing were cited as examples. 3) Serving the public has become more difficult for both the Commission and staff due to the more litigious nature of society. He said he enjoyed serving as Chairman and thanked the Commission for its support during his terms. Mr. Sears noted Mr. Martin had an incredible talent for steering the Commission toward its long term goals. On behalf of the Town, he thanked him for his six years as Chairman. Mr. Fitzherbert noted Mr. Martin had always attempted to get public input and knew how to take advantage of each member's expertise. Mr. Shapiro said he appreciated Mr. Martin's ability to educate the public about the issues involved with applications, the constraints under which the Commission must work, and the role of land use in the Town's decision making process.

MOTION: To adjourn the meeting. By Mrs. Friedman.

Mr. Martin adjourned the meeting at 9:45 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator