

November 28, 2011

Present: Gary Fitzherbert, Lou Abella, Ray Reich, Nick Solley, Dave Werkhoven

Alternates Present: Harry Wyant, Andy Shapiro, A.J. Dubois

Absent:

Staff Present: Shelley White, Janet Hill, Mike Ajello

Others Present: Atty. Fisher, Atty. Olson, Atty. Branse, Atty. Schain, Mr. Aubrey, P.E., Mr. Szymanski, P.E., Mr. Klauer, Mr. Rogness, Mr. Parker, Ms. Giampetro, Mr. & Mrs. Boyer, Mr. & Mrs. Solomon, Mr. & Mrs. Federer, Ms. Purnell, Ms. Kurz, Mr. Hyde, Mr. Stichter, Mr. Tomlinson, Mr. Peterson, Residents

Mr. Fitzherbert called the meeting to order at 7:32 p.m.

Mr. Fitzherbert welcomed new members Mr. Werkhoven and Mr. Solley. He stated that the Commission had a training session with Attorney Zizka on November 22, 2011. The Staff of the Land Use Office and Atty. Olson were invited to attend this meeting. Mr. Fitzherbert stated that the Land Use Attorneys advised him that the most important part of a Public Hearing is for the property owner or applicant to fully explain their application, should always be first and have as much time as needed to present the application. He stated that the attorneys also advised that a time limit be put on speakers and he pledged that all submitted written documents would be read by all of the Commissioners and that any speakers summarize their documents to the most important points. Mr. Fitzherbert stated that he would begin the hearings with a five minute speaking limit and that people would get another chance to speak after everyone else has had their turn, if more time is needed.

Seated: Mr. Fitzherbert, Mr. Werkhoven, Mr. Abella, Mr. Reich, Mr. Solley

PUBLIC HEARING(S)

Wyant & Company/88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment/Installation of Outdoor Cooler:
Ms. Hill read the legal notice published in Voices on November 16th and 23rd, 2011 and the list of documents in the file. Mr. Wyant recused himself. Mr. Drew Stichter stated that he would like to open a restaurant on this site and would like install and exterior walk-in cooler at the rear of the building which measures 10'x20' on an existing paved surface (photo submitted and on file in Land Use Office). Ms. Hill stated that there would be no increase in lot coverage, it meets the setback requirements and has been approved by the Health Department. Mr. Stichter stated that it would be installed on a slab, and there would be minimal noise from the compressors that would run in cycles. Ms. Hill stated that the nearest property line is 67 feet. Mr. Ajello stated that there is a separate application for the signage. There were no further questions from the public or the Commissioners.

Motion:

to close the Public Hearing to consider the application for Wyant & Co., 88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and

Drinking Establishment to install outdoor cooler,
by Mr. Reich, seconded by Mr. Abella, passed by 5-0 vote.

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

Ms. Hill read the legal notice published in Voices on November 16th and 23rd, 2011 and the list of documents in the file. Atty. Fisher stated that he was present on behalf of the Mr. Klauer, Principal of Wykeham Rise, LLC. and that he was planning on giving an overview of the proposed plan but upon entering the meeting received materials from Atty. Branse which he would like to review and respond to at a later date. He stated that Mr. Szymanski was present and would be addressing the points in Ms. Hill's Administrative Report dated 11/28/11 (on file in the Land Use Office).

Mr. Klauer stated that he would like to summarize 4 main points as to why this application meets the criteria of a Special Exception. He stated that the footprint of the main building has been decreased from 20,441 sq. ft. to 16,019 sq. ft., the emergency vehicle access from the south end of the driveway to the dorm building has been deleted, and a driveway has been added to the back of the main building. The proposed plans have received approval from the Inland Wetlands Commission and Fire Marshal for all emergency vehicle access. Mr. Klauer stated that all of these changes result in lot coverage of 9.63% for this proposed plan, which is a decrease from the 9.87% lot coverage that was approved by the Commission with the last application. Mr. Klauer went through the 8 criteria for a Special Permit and stated how this application meets those criteria.

Mr. Szymanski, P.E. stated that he would like to summarize the site development and displayed the map titled Overall Site Development Plan, prepared for Wykeham Rise, LLC, by Arthur Howland and Associates, page OSD.1, dated July 8, 2011 and discussed the proposed location of structures. He stated that they are proposing demolition of all existing structures, the existing tennis court would be removed and restored and how the proposed Storm Water Drainage System has been designed according to the 2004 Storm Water Quality Manual as well as the 2002 Guidelines for Sediment and Erosion Control. Mr. Szymanski stated that LandTech reviewed these plans for the Inland Wetlands Commission.

Mr. Szymanski reviewed proposed landscaping and displayed the map titled Planting Plan, prepared for Wykeham Rise, LLC., by Arthur Howland and Associates in cooperation with Dirk Sabin, Landscape Architect, dated July 8, 2011, sheet PL.1 and discussed the areas of screening. He stated that a lighting plan is included in this proposal as well.

Mr. Szymanski stated that he would like to address and clarify some of the items mentioned in Ms. Hill's Administrative Report to the Zoning Commission, dated 11/28/11 (on file in the Land Use Office). He stated that he would like to sit down with Ms. Hill to discuss a Traffic Management Plan for the construction period. Mr. Szymanski stated that the students would park in the main area and walk to the other parts of the campus. He discussed screening of the parking areas and stated that they are looking for guidance from the Zoning Commission regarding the buffering along Wykeham Road. Mr. Szymanski stated that he would get a certified letter of confirmation from the licensed Land Surveyor that calculated the lot coverage for this proposed plan. He stated that the materials of the main building would mimic the character and aesthetics of the four pod and six pod dormitories and that labels would be added to the plans to clarify. Mr. Szymanski stated that he would meet with Ms. Hill to discuss where the benchmark elevations should be indicated on the proposed plans and

that he would address the vertical distance from the average pre-existing grade and the height of the buildings. Mr. Szymanski stated that he would meet with Ms. Hill to discuss the Traffic Safety Plan regarding the lack of a sidewalk from the main parking lot to the main building. He stated that they would indicate the method of dust control that will be used on the proposed plans.

Mr. Shapiro asked Mr. Szymanski to discuss if the dorms and the main building would be similar between the dorms and the main building. Mr. Szymanski stated that he would verify that information and get back to the Commission. Mr. Solley asked if the applicant could provide some sort of reference point on the elevation drawings for each of the buildings. Mr. Fitzherbert stated that the Zoning Commission does not usually require a rendering of a plan but one of the schools did provide one for a project. Mr. Werkhoven asked if the soccer field on the south side was part of this property. Mr. Szymanski stated that it was not.

Mr. Boyer asked if this changed plan would require any amendments to applications to the State Department of Education for accreditation. Mr. Klauer stated that they are not seeking State accreditation at this time.

Atty. Branse stated he was representing a group of neighbors of 101 Wykeham Road and that in order to keep the record clear, he has submitted an updated letter, dated November 28, 2011 (on file in Land Use Office) with all of the relevant documents that they want to be included in the record. He stated since the applicant received approval last year, they are now trying to cut corners with the materials and simplified, less attractive architecture and that the reduction of square footage of this site is actually only 374 square feet. Atty. Branse stated that the approved plan of 2010 had 35,000 square feet of porous pavement and this plan proposes 6,770 square feet of porous pavement. He questioned whether the Storm Water Plan has been revised as a result of the decrease in porous pavement. Atty. Branse stated that he sought assistance from Mr. Aubrey, P.E. of Towne Engineering to review the plans and the calculations for lot coverage that has been submitted for this plan are incorrect. He stated that he and his clients feel that this is an inn and not a university and this application is worse than the approved 2010 application. Atty. Branse stated that the parking is inadequate and the proposed plans do not indicate the heights of the buildings. He distributed a report from Versteeg Associates addressed to the Washington Zoning Commission, dated November 25, 2011 regarding code compliance and fire safety (on file in the Land Use Office). Atty. Branse stated that handicap access surfaces and driveway widths must be included on the proposed plans and when they are included the lot coverage will be over 10%. He submitted a letter addressed to the Zoning Commission dated November 28, 2011 that summarizes the report done by Towne Engineering (on file in the Land Use Office) and introduced Mr. Aubrey, P.E.

Mr. Aubrey, P.E. of Towne Engineering submitted his report regarding a peer review of Wykeham University, dated November 28, 2011 (on file in the Land Use Office) to the Commissioners. He stated that he believes that the proposed plan is incomplete and does not follow the Town of Washington Zoning Regulations. Mr. Aubrey stated that he does not feel that a 16-foot wide driveway is wide enough for two-way traffic or areas provided for turning movements of delivery trucks and emergency vehicles are too small. He stated that he is concerned with the lack of sidewalks and the fact that a traffic report does not exist for this application. Mr. Aubrey stated that his calculations show that the lot coverage has been calculated incorrectly.

Mr. Rogness submitted a colored photo of the main building that he produced to simulate the view of the main building from the parking area. He stated that it is difficult to get an idea of the exact size of the main building because the plans are missing key measurements and that the main building would be the biggest structure in Town and is only drawn to a 1/16" scale. He displayed a 1/8" scale of the proposed main building and discussed the size and scale of the building and the change in architecture compared to the main building of the 2008

application and the surrounding neighborhood.

Ms. Giampetro stated that when she bought her house 15 years ago she saw “nice, white New England Buildings across the street and she is concerned that now the property is dilapidated, furniture in the stream, unmowed lawns and general lack of care and that “lack of respect for the neighborhood does not bode well for the future.”

Mr. Parker stated that he does not understand how a new business could start out with an almost 10% lot coverage maximum with no knowledge of how the business would operate and what would be needed in the future. He asked if there is room for an alternate septic system if the current one is not approved. Mr. Fitzherbert stated that the proposed plan would not be approved until the septic is approved by the DEP. He asked, “What precedent school transaction has pushed the limit of 10% lot coverage with no prior history of operating?” He stated that there is a lack of information as to how this school would operate and he asked how many parking spots currently exist on the property. Mr. Fitherbert stated that he was not sure. Mr. Parker stated that he does not think it was 103 parking spots and he asked, “How do we know the traffic patterns of this business without a plan, without any understanding, without any precedent?” He stated that he would be happy to see a bonafide school on this property but he “has yet to see a business that starts up and goes from 0 to 100 in one go with no room for error. Size and Scale is our problem.”

Atty. Schain stated that there is no way to verify the proposed 309 auditorium seats because they are not affixed, but if this is the true amount of seats 103 parking spaces would not be adequate.

Ms. Purnell stated that she has conducted a special permit standards analysis and stated that she is looking at this proposed plan from a conservation biologist point of view. Ms. Purnell submitted a letter dated November 28, 2011, with attachments, an 8 1/2” x 11” copy of Existing Facilities Plan prepared for the Swiss Hospitality Institute, dated July 15, 1991 and a document entitled 101 Wykeham Road, Wykeham University – Special Permit Application III, Special Permit Standards Analysis. She stated that she has included some information from the Washington Montessori School project statistics, old photos of the original Wykeham Rise School. She stated that she is concerned with a number of elements and feels that the lot coverage is severely underestimated.

Ms. Boyer stated that she read that on October 11, 2011 a judge upheld the Zoning Commission’s denial of the inn at Wykeham and she is “curious as to why Mr. Klauer submitted the paperwork to appeal this denial if he is doing Wykeham University.” She asked why he is putting the Washington Zoning Commission as well as other Washington Commissions, and the public employees and the taxpayers of the Town are put “through all of these endless hoops and time and money for Wykeham University when to me he has no desire to do anything except put in the inn.” She stated that “I wonder if he has considered the amount of man hours that our Town and our Town monies that have been used for not only the current ruse but also for the affordable housing ruse along with the denial of, but legitimate, Wykeham Inn application. And I just feel enough is enough.”

Ms. Kurz asked for clarification as to what removal and restoration of the access road off of Bell Hill meant. Mr. Fitzherbert stated that the material of the access road would be removed and replaced with soil.

Mr. Tomlinson stated that he agrees with Ms. Boyer and that he feels that small groups of people are abusing the system and the rest of the Town is paying the bill for this small group of people that have made a big issue out of something that has existed for a long time and has

resulted in ‘taxpayer abuse.’ He stated that he “would like, from the staff, at this point, because of their obvious dedication to one side...I would think Mrs. Hill and Mr. Ajello should be removed from any further process and somebody else be appointed to deal with this issue.” Mr. Tomlinson stated, “Mr. Shapiro and Mr. Solley be removed because they have already indicated where their interest is.”

Mr. Solley disagreed and stated that he did not believe that he should recuse himself.

Mr. Fitzherbert stated that Mr. Shapiro has not been seated for this public hearing.

Atty. Olsen stated that the staff would not be rendering a decision and it would not be necessary to remove them from working on this application. Atty. Branse stated that his knowledge of the law is that staff can’t have a conflict of interest because they don’t vote.

Ms. Hill stated that she objected to someone saying that she is biased one way or another.

Mr. Aubry, P.E. stated that the plan shows one-way traffic and it would be important to show this on all the maps and a traffic report is very important. He stated that he contacted the water company and they do not serve this property at the moment but are obliged to serve the property because there is a water main within 200 feet. Mr. Aubrey stated that the water main was built in 1898 and there is currently no definite location or details of the main and any easement, which may apply throughout this site, indicated on the plans. He stated that the proposed main building generator location would violate the Zoning Regulations and there is no indication of an auxiliary back up pump or generator for the water pump house on the plans. Mr. Aubry stated that there were no soil logs for the test pits, the information in the drainage report is incomplete and the farm road that exists on the property is not fully detailed on any of the sheets in the plan set including the Topographic Survey. He stated that there is no vehicle access provided for the southerly portion of the Main Building, dorms #2, #3, #4, the Art Building or Pool House and handicap accessible routes for each building are not indicated on the plans. He stated that he was not sure if the Flexi-pave surfaces, if that is what would be used, are sufficient for an ADA accessible route. Mr. Aubrey summarized issues regarding the height benchmarks of buildings, the old sewage leaching area, servicing of tanks behind buildings, footing drains and the amount of material needed for fill all which are included in the section titled Miscellaneous Site Plan Specific Review Items and other Comments/Concerns from his report dated November 28, 2011 (on file in the Land Use Office).

Mr. Rogness stated that he included and outline of his house, which is 2800 sq. feet on the 1/8 “ scale drawing of the proposed main building for a comparison as to how large the proposed main building is to be and by estimating he has figured that 37 of his houses would fit into the proposed main building. He stated that his letter to the Zoning Commission dated November 28, 2011 addresses his concern that this is a plan for an inn or a resort. He stated that he and Mr. Parker have met with the Klauers to see if they could find some kind of common ground and they asked that the Klauers make a public statement about what the property would be used for other than a resort or inn if the school idea does not work. He stated that there has been no response to the request.

Break: 9:40-9:45pm

Mr. Parker stated that the use for this property would be noisy and busy, which is the exact opposite of the previous uses of this property. He asked when the removal of and restoration of the Bell Hill Road access would take place and would it be used during the construction phase. Mr. Parker stated that it would be helpful if the applicant would provide the total floor space of the buildings

Ms. Giampetro stated that from her house she would be looking at a parking lot and a lot of rip rap and that would not be an improvement.

Atty. Branse stated that he feels that fact that Mr. Szymanski did not show details on the architectural drawings when the Commission asked for it in August is a problem. He asked when the exact height calculations would be available.

Mr. Parker stated that clarity on the size of the buildings and the ability to see the whole project in scale is important.

Ms. Purnell stated that she calculated the sq. footage of the abutting properties and she compared them to the proposed square footage of the proposed Wykeham University.

A resident of Old North Road stated that he lives across from the Gunnery property. He urged the Commission to require the plans to be as detailed as possible. He stated the proposed plans are vague and he hopes that the Commission does not vote on this tonight.

Atty. Fisher stated that the applicant would like to take time to respond to each question and concern and discuss at a later date.

Mr. Fitzherbert verified that all documentation should be submitted 15 days prior to the continuation of this Public Hearing.

There were no further questions or comments from the Commission or the Public.

Motion:
to continue the Public Hearing at the next Zoning Commission Meeting on December 19, 2011 at 7:30 pm in the Land Use Meeting Room at Bryan Memorial Town Hall to consider the application for Wykeham Rise, LLC, 101 Wykeham Road/Special Permit: Section 4.4.10/School,
by Mr. Reich, seconded by Mr. Solley, passed by 5-0 vote.

Break: 9:55-10:00 pm

Revision of the Zoning Regulations/Section 15.1/Addition of general requirements for compact car parking spaces:

Ms. Hill read the legal notice published in Voices on November 16th and 23rd, 2011 and the list of documents in the file. She read the proposed language for Section 15.1:

General Requirements:

Parking Facilities which are sufficient to accommodate the motor vehicle of occupants, employees, customers and other persons normally visiting the premises shall be provided on the property. Parking facilities shall be designed to accommodate normal usage not maximum possible usage during unusual circumstances unless modified by the Commission pursuant to Section 15.3. Each parking space shall be rectangular and measure 9 feet by 18 feet. A designated compact car parking space shall measure at least 8 feet by 15 feet. Up to 30 percent of parking spaces may be designated for compact cars. In addition, adequate maneuvering space shall be provided for all parking spaces and facilities.

Mr. Fitzherbert updated the new members as to why the Commission is considering this revision.

Ms. Hill read the letter from Mr. McGuinness, Director of the Northwest Connecticut Council of Governments (on file in the Land Use Office). He stated that the revision does not require that the compact parking spaces are marked and that there is no practical way to enforce that only compact cars shall park in designated compact car spaces.

There was a brief discussion how this revision would ease the current regulation on parking spaces.

Motion:
to close the Public Hearing to consider the application for the Revision of Zoning Regulations Section 15.1/Addition of general requirements for compact car parking spaces,
by Mr. Werkhoven, seconded by Mr. Abella, passed by 5-0 vote.

REGULAR MEETING

Mr. Fitzherbert called the Regular Meeting to order at 10:20 pm.

Seated: Mr. Fitzherbert, Mr. Werkhoven, Mr. Abella, Mr. Reich, Mr. Solley

Consideration of the Minutes

The minutes of the October 24, 2011 Zoning Commission Meeting were considered.

Motion:
to accept the Zoning Meeting Minutes of October 24, 2011, as submitted,
by Mr. Reich, seconded by Mr. Abella, passed by 5-0 vote.

Pending Applications

Wyant & Company/88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment/Installation of Outdoor Cooler:

There were no further discussions from the Commission.

Motion:
to approve the application for Wyant & Co., 88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment to install outdoor cooler,
by Mr. Reich, seconded by Mr. Solley, passed by 5-0 vote.

New Application(s)

There were no new applications.

Other Business

Revision of the Zoning Regulations/Section 15.1/Addition of general requirements for compact car parking spaces:

The Commission agreed to add a phrase that compact parking spaces be marked on site.

Motion:

to approve the Revision to Section 15.1/Addition of general requirements for compact car parking spaces,
by Mr. Abella, seconded by Mr. Solley, passed by 5-0 vote

Privilege of the Floor

Mr. Parker stated that he would like to work with someone in the Town to get wireless Internet in the Town Hall. Mr. Fitzherbert stated that he supports this idea and that they could talk to the First Selectman about it.

Communications

There were no communications to discuss.

Zoning Enforcement

The Commission considered the Zoning Enforcement Report dated 11/28/11.

Mr. Ajello stated that he welcomes comments from the Commission regarding the Generator Regulations. He stated that with the consent of the ZBA, he has suspended enforcement of the segment of Section 12.14.4, which requires generators to be surrounded by a 6-foot stockade fence or an equivalent sound deflecting structure.

Parking at the Community Table/223 Litchfield Turnpike:

Mr. Ajello stated that he has been doing repeated drive by inspections of the Community Table. He stated he was waiting to see if the Revision to Section 15.1 would be passed and he expects that he will have a full report for the next Zoning Commission meeting. Mr. Hyde spoke at length regarding his concerns about parking on Wilbur Road.

Adjournment

Motion:

to adjourn at 10:40 pm.
by Mr. Reich, seconded by Mr. Abella, passed by 5-0 vote.

Mr. Fitzherbert adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:
Shelley White, Land Use Clerk