

December 16, 2002

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

ALTERNATES PRESENT: Mr. Brinton, Mr. Shapiro

ALTERNATE ABSENT: Mr. Abella

STAFF PRESENT: Atty. Byrne, Mrs. Hill, Mr. Solley, Mr. Wyant

ALSO PRESENT: Mr. Sears, Mr. Talbot, Mr. Boyer, Mr. Millington, Mr. Cannavaro, Mr. Shannon, Mrs. Rourke and approximately 100 residents and members of the press

PUBLIC HEARING

Washington Montessori School-Washington Community Housing Trust

16 Church Street/Special Permit: Section 13.15/Town of Washington or Non Profit Sponsored Affordable Housing

Mr. Martin called the public hearing to order at 7:30 p.m. and seated Members Fitzherbert, Friedman, Martin, Owen, and Page. He explained the hearing procedure and agenda to the public and introduced the Commission's counsel, Atty. Byrne.

Ms. Page read the legal notice published in **Voices** on December 4 and 11, 2002.

Mr. Martin reviewed the list of documents in the file. (See attached list.)

Mr. Sears, President of the Washington Community Housing Trust, presented the proposal to convert the existing Montessori School building to 12 units of affordable housing in accordance with the State of Ct. general statutes re: affordable housing. One 3 bedroom apartment, 2 handicapped apartments, three 2 bedroom, and six 2 bedroom townhouse apartments totaling 23 bedrooms were proposed on the 3.465 acre parcel. He compared this density to South Commons in Kent, which has 24 apartments on 3.4 acres. Mr. Sears and Mr. Talbot, architect, compared the existing conditions map with the plan, "Site Plan, by Mr. Talbot, revised to 10/22/02, noting that both the footprint of the building and the total coverage of the lot would decrease due to the proposed demolition of sections of the existing school and the decrease in the number of parking spaces from 56 to 31. Mr. Sears referred to the scale model of the project and the elevations by Mr. Talbot and said the Housing Trust was attempting to compliment the historic and aesthetic characteristics of the neighborhood and would provide landscaping and buffering per the landscaping plan by Mr. Sabin.

He stressed the design was in harmony with the neighborhood and appropriate for the lot. He stated the proposal was consistent with the 1993 Plan of Conservation and Development and described how it complied with Sections 13.1.B.1-8 of the Zoning Regulations. The points Mr. Sears made included:

- 12 units were proposed based on septic tests and economic feasibility.

- According to Ms. Adams, real estate broker, the proposed complex would not affect property values in the area.
- Neighbors have expressed concerns about transients, but the average tenant stay at the Dodge Farm affordable housing complex is over 4 years and at Ellsworth Apartments it is longer.
- Rents would be set according to the state affordable housing requirements in the state affordable housing appeals act (AHAA), which were reviewed.
- WCHT carefully selects tenants by checking references and credit checks, has renters sign rental contracts, and enforces the rules in the tenants' handbook.
- It is estimated the complex will have 30 residents of various ages and incomes.
- The New Preston Water Co. reported it has adequate water to serve the proposed units, but low pressure. WCHT is working with the water company to make improvements to solve the pressure problem.
- The Fire Chief has issued preliminary approval. A 10,000 gallon cistern will be installed on site.
- Traffic congestion will decrease as the existing school has a yearly average of 100 trips per day and the 12 apartments will have many fewer trips per day.
- Parking will be reconfigured and there will be entrances from both Church Street and Hinckley Road.
- The proposed apartments will have less of an impact on the neighborhood than the existing school; reduction of noise, less traffic, less fumes, smaller structure. There will also be minimum signage and low level lighting.
- Mr. Sears confirmed that this application is being submitted under the AHAA. WCHT will comply with the three-fold requirements under this act: 1) % of units set aside; 2) rental/income formula; and 3) 40 year deed restriction.

The Commissioners asked several questions.

- Mr. Shapiro asked for more information about the water problems. Mr. Sears said the WCHT would work with the Water Company to raise the cistern at the water source for more pressure and to increase the size of the water main.
- Mr. Martin asked if the water supply was adequate. Mr. Sears referred to Mr. Black's 9/23/02 letter, which stated there is currently an excess of 7000 gallons per day.
- Mr. Martin asked Mr. Sears to explain in detail how the project meets the three criteria of the affordable housing statutes. Mr. Sears stated all the units, not just the required 30%, would be affordable, rents would not exceed 30% of the medium income of the state, and the units would be deed restricted as affordable in perpetuity, not just the 40 years required. Mr. Sears provided additional figures

based on the 2000 census data. Atty. Byrne stated the information provided was adequate to show the applicant intends to comply with the state statutes governing affordable housing (AHAA).

- Mr. Martin asked if the WCHT had considered building fewer apartments. Mr. Sears stated the proposal was smaller than the 20-21 units originally discussed with Mr. Chapin and said to make the complex economically feasible and to have a manager reside on site, 12 units were required.

Mr. Shannon represented forty-four New Preston area residents against the application. He submitted a list of the 44 names, a petition with 153 signatures against the project and a copy of his slide presentation for each Commissioner. He stated the residents he represents do not object to affordable housing in general, but to the size and scale of this project because it does not fit in with the neighborhood. The points he made in his presentation included the following:

- Traffic congestion in the area would increase because the existing school is not open during the weekends, summer, or evenings as the apartments would be.
- The existing rural road network is not adequate due to the narrow roads, hills, poor sight lines, and many driveways in the area. His slides included photos of dangerous areas and intersections. He also noted that church and New Preston Women's Club events add to the traffic and parking problems and said on street parking adds to the dangerous conditions, limits two way traffic, and makes it difficult for emergency vehicles to access the area. He noted there has been no traffic study for the proposal.
- He maintained 31 parking spaces was not enough to accommodate 23 bedrooms.
- According to Mr. Hazo, a certified appraiser, the complex would make the area less desirable.
- 2.19 acres of the parcel have deed restrictions so all the units would be located on 1+ acres.
- The two 2 story buildings proposed would be visual obstructions, which would block the view of the historically and architecturally significant church.
- The lighting and parking required for 12 apartments would create a nuisance in the neighborhood.
- In comparison to River Woods and Dodge Farm, which are set back far from the road with substantial vegetation for buffering, the proposed units have no buffering on three sides of the property.
- A project of 6 apartments, or small starter homes or single family condos would be the size and scale appropriate for this parcel and would be more in keeping with the historic neighborhood.
- He stressed the traffic congestion the complex would create would be hazardous to public safety and would increase the traffic in the area during non school hours.

Public Input:

- Mr. Cannavaro/12 Church Street: He appreciated the need for affordable housing in Town, but objected to the size and scale of this project. He noted there are deed restrictions on the property and submitted a letter to Atty. Fairbairn concerning these restrictions for the record. He thought a larger, more appropriate parcel could be found elsewhere in Town.
- Mrs. Rourke/Hinckley Road: She requested more specific information concerning the proposed landscaping, mature trees, and a guarantee the landscaping plan would be implemented. She expressed her concern about the proposed driveway on Hinckley Road because it would not be safe for the children who live and play in the vicinity. She stated the WCHT did not take the comments of area residents into consideration when it drafted its plan, which she said was dictated by the donors of the funds for the units instead of what was in the best interests of the neighborhood. She also said later in the hearing she was not against affordable housing, but was against the size and scale of this proposal.
- Mr. Tagley/Quarry Ridge, Mygatt Road: He commented on the political nature of the situation to which Mr. Martin replied that the Zoning Commission is charged by state statute to base its judgements on the law rather than popular sentiment. Mr. Tagley noted his understanding that when the state criteria for affordable housing is met, it may be located anywhere, which could have a significant impact on the character of Town. He asked if the Zoning Commission could create a specific corridor where this type of housing would be permitted. He objected that owners of single family dwellings must meet stricter zoning standards than affordable housing projects. Atty. Byrne agreed that if the state criteria for affordable housing was met, the standards in the Zoning and Subdivision Regulations do not have to be met. He explained the state legislature has established the affordable housing statutes and these supercede local Zoning regulations so the Commission could not restrict these projects to any specific district. Atty. Byrne also discussed the standards considered by the court when deciding an appeal of an affordable housing decision. Matters of substantial public interest, he said, had to do with public welfare and safety, such as water supply and sewers. Although he was not aware of any case where the court upheld an affordable housing appeal due to traffic concerns, he said it was always possible that the court could consider this a matter of substantial public interest.
- Mr. Ross/Hinckley Road: He expressed his concern about traffic and the safety of school children who would be home on days when school was canceled.
- Mr. Anderson/7 Hinckley Road: He asked whether the proposed apartments would be for Washington residents only, pointing out WCHT had stated River Woods would be for Washington residents only, but was now accepting out of towners. He noted while the scale model of the project was nice, it was misleading because it did not include all the surrounding buildings or the imperfections of the site and used trees on other properties for buffering. He thought the apartments were an unwelcome and out of place island in the center of his neighborhood and recommended the Commission conduct a site inspection. He was also concerned about traffic. Mr. Martin asked Mr. Sears what the market scope would be in terms of Washington residents vs. outsiders. Mr. Sears said the WCHT was committed to provide housing opportunities for people with significant ties to Washington including people who commute here to work, those who couldn't afford to stay here, etc. Mr. Sears explained River Woods was filling more slowly than the other affordable housing projects because it is a difficult decision for an elderly person to make a major lifestyle change. He anticipated the senior housing would be full by spring. Mr. Boyer stressed the WCHT had never said it would strictly limit the tenants in any of its projects

to Washington residents only, but had always said it would accept those with strong ties to Washington.

- Mrs. Rourke: She noted the Dodge Farm residents who had saved enough to purchase homes had had to move out of Washington due to the lack of affordable homes here. She recommended this site be used to construct two or three affordable single family houses.
- Mrs. Friedman: She noted the Commission did not have enough information to judge whether a complex with fewer units would be feasible. Mr. Sears responded 1) 12 units were needed in the larger context of affordable units for the Town as a whole, 2) Dodge Farm has 14 units and just breaks even, 3) Originally River Woods had been planned for 8 units, but due to mortgage financing was increased to 12 units, and 4) One of the apartments was a unit for an on site manager. Mr. Martin noted some people thought one reason it was taking so long for River Woods to fill up was the small size of the units. He asked whether fewer, but larger units might be a better solution. Mr. Sears said the proposal has generously sized apartments ranging from 900 to 1400 sq. ft. (According to the floor plans submitted the exact sizes proposed range from 995 to 1323 sq. ft.) Mr. Brinton asked what the average number on the waiting list for Dodge Farm is. Mr. Meyers said it varies, but is usually 8 or 9.
- Mr. Cannavaro: He said he had heard the size of the project could not be scaled down due to costs, and so asked what the cost of the project would be.
- Ms. Pring/Hinckle Road: She objected to the WCHT's advertisements for out of town people to fill Dodge Farm. Mr. Sears explained state funds were used to finance those units so the Trust was bound to an affirmative action marketing plan in both urban and minority areas.
- Mr. Boling/Church Street: He voiced his concern regarding clusters of people of modest means and suggested the proposed units reflect greater diversity to attempt to preserve rural character. He asked the Commission to consider conditions of approval that would help achieve these goals, but not affect the affordability of the units.
- Mrs. Shannon/Hinckley Road: She questioned the need for more affordable apartments in Washington and complained the donors were controlling the project rather than the needs of the Town.
- Atty. Kelly/Kielwasser Road: He made the following points: 1) Currently Washington has only 33 affordable units, but needs 200 to reach the 10% goal. 2) The people who would live in the proposed units would be a source of volunteers for the Town. 3) WCHT deserves enormous thanks for its efforts to provide affordable housing in Town and to keep this proposal a modest size since any developer could have proposed a much larger complex. 4) He urged those opposed to encourage the Town to begin partially funding affordable housing as a way to keep costs down and in turn, density lower. Atty. Byrne agreed the current Zoning Regulations can not stop for profit developers while the 10% goal has not yet been met. He also noted that for profit developers need only propose 30% of their units be affordable to meet the state statutes.
- Mr. Boyer, WCHT: He noted if these 12 units were constructed the Town would achieve 2% of the affordable unit goal and that would give the Town a 4 year moratorium on outside developers.

- Mr. Krenkle/Hinckley Road: He complained with the school parking gone there would be no place for church parking and said on street parking would make it difficult for emergency vehicles to access nearby homes.
- Mr. Rourke/Hinckley Road: He asked how much money had been donated for the project, what the money would be used for, and thought if a \$3 million dollar donation had been made it would pay for all of the costs. Mr. Martin stated financing was not a zoning issue. Atty. Byrne thought the information could be helpful if available. Mrs. Friedman thought financing was, indeed, a zoning issue because it relates to how many units must be built to make the project work. She requested financial data so the Commission could make a judgement about whether 12 units were needed.
- Atty. Fairbairn/Green Hill Road: He noted he represents Kent Affordable Housing. He said Kent required 24 units to make it financially feasible and so thought it was remarkable the WCHT could achieve this with only 12. He offered to provide figures from Kent as an example.
- Mr. Lambino/Litchfield County Times: He asked Atty. Byrne if there were any precedents for the court upholding an appeal based on decrease of property values. Atty. Byrne said there was not.
- Mr. Tagley: He asked if the project had to be fully funded before it could be approved. Atty. Byrne stated this was not a requirement.
- Mr. Martin: He asked whether the DEP approval was for water and septic. Mr. Sears stated it was for septic only.
- A site inspection was scheduled for Sunday, January 5, 2003 from 10:00 to 11:00 a.m. The public hearing was continued to Monday, January 13, 2003 at 7:30 p.m. in Bryan Memorial Town Hall.
- Mr. Martin asked WCHT for any financial information, which would substantiate the need for the size and scale of the project.
- Mr. Martin noted the issue of water supply was one a court would take into consideration. He indicated the Commission would carefully review the report from R.J. Black and Son.
- Mt. Shapiro noted many residents had complained about traffic hazards in the area and asked if there was any evidence to be submitted concerning accidents and injuries in the area. Mr. Shannon stated traffic patterns would be different when the units were constructed and there would be an increased risk of accidents.
- Mr. Avery/New Preston Hill Road: He stated there is no speed limit posted on his road and cars pull blindly out onto it from Church Street. He also asked whether the water tank for the New Preston Water Co. would be above or below the ground. Mr. Sears said it would be below ground.
- Mr. Krenkle: He complained the perc tests had been done during a dry period and said there was no reserve area should the septic fail. He asked the Zoning Commission to study this matter. Mr. Martin responded the Commission has a long standing precedent to accept state and local health department rulings as it has no expertise in this area. Mr. Owen noted it would be highly unlikely that the

Commission would hire an expert to challenge the state Department of Public Health, adding a citizen could do so on his own if he thought it necessary. Mr. Martin noted, too, that septic systems of this size have safety margins built into their designs to protect against failure. Mr. Anderson thought the Commission should consult directly with the state DPH. Mr. Martin said he would ask Mr. Crespan, Director of Health, for copies of the state paperwork so that it could be entered into the public record of this public hearing for anyone to review. Ms. Pring noted there is a lot of ledge in the area and asked if this had been accounted for in the septic plans. It was noted this is not a zoning issue.

- Mr. Carlson/Kinney Hill Road: He asked for clarification that if the state criteria for affordable housing is met, the state statutes then override the local Zoning Regulations. Mr. Martin said this was true.
- Mrs. Allen: She stated the Sunday morning church parking issue is the church's problem, not the problem of the owner of 16 Church Street.
- Mr. Ross/Hinckley Road: He noted his concern about the size of the project in relation to the size of the property. He asked if the Commission has any recommended guidelines and if approved, whether a precedent would be set for similar projects. Mr. Martin responded Zoning's density regulations are very important and apply to the whole Town. In this limited case, however, the density regulations have been overridden by the AHAA because the project meets the state criteria for affordable housing.
- Atty. Fairbairn: He noted there are other areas in Town with higher densities than currently permitted under soil based zoning, which are grandfathered. He cited The Green as an example, where there are 5 apartments on a half acre property and 7 units and an office on another parcel that is under an acre.

The following documents were submitted at the hearing:

1. Petition against the application
2. Copies of slide presentation by Mr. Shannon, "New Preston, 16 Church Street Proposed Apartment Complex Development"
3. Letter from Mrs. Rourke to the Commission, dated 12/16/02 - opposed
4. Letter from Mr. Sachs and Ms. Lerner to the Commission, dated 12/12/02 (unsigned) - opposed
5. Letter from Atty. Fairbairn to Mr. Arturi dated 3/19/01 re: restrictions on the property
6. Warranty Deed, 4 pages, re: restrictions on property
7. Letter from Mr. Somersett to Mr. Sears, dated 6/30/02 - in support
8. Letter from Mr. Wright to WCHT, dated 7/4/02 - in support

9. Letter from Mr. and Mrs. Murgio to WCHT dated 7/1/02 in support
10. Letter from Mrs. Kopp to WCHT, dated 7/1/02 - in support
11. Letter from Mr. Duncan to whom it may concern, dated 7/5/02 - in support
12. Letter from Ms. Morse to WCHT, dated 7/2/02 - in support
13. Letter from Mr. and Mrs. Seitz to Mr. Sears, dated 4/12/02 - in support
14. Letter from Mr. and Mrs. Benedict to Mr. Sears, dated 6/29/02 - in support
15. Letter from Mr. and Mrs. Averill to Mr. Sears, dated 6/24/02 - in support
16. Letter from Ms. Adams to whom it may concern, dated 7/7/02 - in support
17. Letter from The First Congregational Church to Mr. Sears, dated 10/1/02, in support and making a substantial donation
18. Letter from Mr. Reinholt to whom it may concern, dated 6/29/02 - in support
19. Letter from Mr. Boling to WCHT, dated 4/21/02 - in support with recommendations for changes
20. Letter from Mrs. Bronson to the Zoning Commission, not dated, - in support
21. Letter from Mr. Sears to New Preston neighbors, dated 12/02 re: notification of area residents about the proposal and public hearing
22. Letter from Mr. Sears to the Zoning Commission, dated 12/16/02 re: compliance with Washington Zoning Regulations
23. 2 photos of light fixtures
24. Letter from Mr. Black, R.J. Black & Son to Mr. Sears, dated 9/23/02 re: water supply
25. Series of 3 site plans, unsigned, undated, comparing layouts and lot sizes for River Woods, Dodge Farm, and current proposal
26. "Drainage and Grading Plan," by Mr. Howland, dated 12/13/02
27. "Erosion and Sedimentation Control Plan and Detail Sheet," by Mr. Howland, not dated
28. "Site Photo," Peter Talbot Architects, 10/22/02

29. "Church Street and Hinckley Road Neighborhood Density Map," unsigned, not dated, re: number of current residents per lot

30. "Landscaping Plan, by Mr. Sabin

At 9:50 p.m. after everyone present had the opportunity to express themselves on this matter, Mr. Martin continued the public hearing to the site inspection on January 5th.

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 10:04 p.m. and seated Members Fitzherbert, Friedman, Martin, Owen, and Page.

Consideration of the Minutes

MOTION: To accept the 11/25/02 Regular Meeting Minutes as written. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Pending Applications

Cass-DePecal/43 June Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

It was noted the Inland Wetlands Commission had not yet approved this application. Therefore, a public hearing was not scheduled.

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

The public hearing was continued to the January 5th site inspection and to Monday, January 13, 2003 at 7:30 p.m. in Bryan Memorial Town Hall.

New Applications

Long View Landing/96 Romford Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

It was noted Health Department approval had been granted. A public hearing was scheduled for Monday, January 27, 2003 at 7:30 p.m. in the Land Use Meeting Room.

McCullers/18 Plum Hill Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

It was noted the Health Department had not approved this application and so it was considered incomplete.

Rumsey Hall School/201 Romford Road/Special Permit: Section 4.4.10/Construct Faculty Housing

Mrs. Hill noted this application had been submitted after the agenda had been mailed. There was no Health Department approval and so it was considered incomplete.

Other Business

Revision of the Zoning Regulations/Section 17/18

It had been agreed at the last meeting that Atty. Byrne would be asked to work on a draft regarding Special Exceptions. Mr. Shapiro completed a memo of instructions/parameters for Atty. Byrne, which was circulated for review. Mr. Martin thanked Mr. Shapiro for his efforts and noted it had already been handed to Atty. Byrne. Mr. Martin also noted Atty. Kelly had written an outline of suggestions for this effort, which contained some good points. This also will be sent to Atty. Byrne. It was noted the new language will specify exactly which sections of the Regulations will qualify for flexibility by Special Exception. Mr. Martin also noted that instead of incorporating this in Section 17 it had been suggested it be added to Section 18, Zoning Board of Appeals. All Commissioners were asked to carefully consider how flexibility under a Special Exception section could best be implemented.

Plan of Development

It was noted the next Planning Commission to discuss the Plan of Development will be held on Tuesday, December 17 from 4:00 to 6:00 p.m. The topic is Development and the Zoning Commission is invited to attend.

Privilege of the Floor

On behalf of the Washington Community Housing Trust Mr. Sears thanked the Commission for its time and effort at the public hearing.

Other Business

AT&T Wireless/Petition to Amend the Zoning Regulations

Mrs. Hill reported the petition to amend the Regulations had been received at 5:02 p.m. today. A public hearing was scheduled for Monday, January 27, 2003 in the Land Use Meeting Room, at 7:35 p.m. Mrs. Tracy asked if she could discuss this matter with the Commission, but Mr. Martin advised her to wait until the public hearing.

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

Mr. Martin adjourned the meeting at 10:25 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, ZEO