

February 22, 2010

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

Alternates Present: A.J. Dubois, Harry Wyant

Absent: Andy Shapiro, Alt.,

Staff Present: Janet Hill, Shelley White

Others Present: Dirk Sabin, Landscape Architect, Members of the Board of Hollister House, Selectman Solley, Mr. Klauer, Mr. Federer, Mr. Peacocke, Mr. Dutton, Mr. Charles, Ms. Branson, Ms. Forese, Residents

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

PUBLIC HEARINGS

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

Schoellkopf/300 Nettleton Hollow Road/Special Permit: section 13.17/Town Landmark Site:

Ms. Hill read the legal notice published in Voices on February 10 and February 17, 2010.

Mr. Owen read the list of documents on file for this application. Mr. Dirk Sabin, Landscape Architect was present to represent Mr. Schoellkopf's application. Mr. Sabin gave an overview of the property at 300 Nettleton Hollow and discussed the merits of why the property should receive "Landmark Status" in the Town of Washington. Mr. Sabin presented the Property/Boundary Survey, by T. Michael Alex, prepared for Hollister House Garden, The Garden Conservancy, 300 Nettleton Hollow Road, dated March 2009 and he explained the topography of the property. He discussed The Garden Plan, by T. Michael Alex, for Hollister House Gardens, dated May 2007, and Existing Floor Plans, by Dirk W. Sabin, dated 2/20/10 of all the buildings at 300 Nettleton Hollow Road. He explained that the reason why they are seeking Town Landmark Designation is that there are some events that are held on the property, and it is open on periodic weekend days during the growing season, by appointment, and it will continue to operate this way for the present time, however, in the future they would like the capability to make improvements to accommodate more public access. He stated that at the present time there are two part time employees and volunteers that work for Hollister House and there are no retail goods. The Fire Marshall was contacted and he stated that the occasional tent may need an approval but otherwise, approval of the current outdoor use of the property was not necessary. Mr. Owen stated that this is what Regulation 13.17 is for and that all the required information has been submitted. He stated the permit would cover the occasional outdoor activities. There was a discussion regarding parking. Mr. Sabin stated that there is room for approximately 15 cars. Mr. Owen read Zoning Regulation Section 13.17. He stated that any additional site plan alterations would have to go through the proper application processes. Ms. Susan Branson asked the Zoning Commission if they permit this designation, would each part of the property be listed in the approval. Mr. Owen stated that the approval would consist of all the items that have been discussed at this hearing and that are on record for this application.

Motion:

to close the Public Hearing to consider the Special Permit Application submitted by Schoellkopf, under section 13.17 Town Landmark Site

at 300 Nettleton Hollow Road,
by Mr. Fitzherbert, seconded by Mr. Abella, by 5-0 vote.

REGULAR MEETING

Mr. Owen called the regular meeting to order at 7:55 p.m.

Motion:
to add Sekikawa/4 Green Hill Road, Washington Depot, CT/Special Permit: Section 8.4.19/Eating and Drinking Establishment and Williams/88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment under IV. New Applications on the Agenda, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

Consideration of the Minutes

The January 25, 2010 Zoning Commission Regular Meeting Minutes were considered:

Corrections:

Page 5: Delete: He stated that there are statements that could be clarified and otherwise these statements tend to mislead the public.

Motion:
to accept the Zoning Meeting Minutes of January 25, 2010, as amended,
by Mr. Abella, seconded by Mr. Averill, by 5-0 vote.

Pending Application(s)

Schoellkopf/300 Nettleton Hollow Road/Special Permit: section 13.17/Town Landmark Site:

Mr. Averill asked if the Zoning Commission was declaring this property a Town Landmark Site by Special Permit or if this is just part of a process. Mr. Owen stated that the Zoning Commission would be approving a Special Permit application for it to be considered a Town Landmark Site. This would be giving the official status to the property. The Commissioners discussed how the motion should include specifics to identify the current property that would be designated as a Town Landmark.

Motion:
to approve Special Permit Application: Section 13.17 submitted by Schoellkopf for Town Landmark Site at 300 Nettleton Hollow Road for current land, gardens, buildings, driveways, parking areas and outdoor activities as described in the application,
by Mr. Owen, seconded by Mr. Reich, by 5-0 vote.

New Application(s)

Sekikawa/4 Green Hill Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment:

This application has been approved by the Health Department.

Motion:

to schedule a Public Hearing on March 22, 2010 to consider the Special Permit Application submitted by Sekikawa/4 Green Hill Road/Section 8.4.19/Eating and Drinking Establishment,
by Mr. Owen, seconded by Mr. Reich, by 5-0 vote.

Mr. Wyant recused himself.

Williams/88 Bee Brook Road/Special Permit: Section 8.4.19/Eating and Drinking Establishment:

Mr. Williams was present and stated that he would be meeting with the Town Sanitarian tomorrow.

Motion:

to schedule a Public Hearing on March 22, 2010 to consider the Special Permit Application submitted by Williams/88 Bee Brook Road/Section 8.4.19/Eating and Drinking Establishment,
by Mr. Owen, seconded by Mr. Reich, by 5-0 vote

Mr. Wyant returns.

Other Business

Possible Revision of The Zoning Regulations/Section 12.14 Re: Special Exceptions for Generators and Other Noise Generating Equipment:

The Zoning Board of Appeals has not submitted a response as of the time of this meeting.

Possible Revision of the Zoning Regulations/Section 13.9/To Allow Inns on Town Roads- Definition of "Inn":

It was the consensus of the Commission to move this to the last item under Other Business on the Agenda.

Possible Revision of The Zoning Regulations Re: Definition of "Eating and Drinking Establishment" – "Restaurant":

A Public Hearing has been scheduled on Monday, March 22, 2010 at the regular scheduled Zoning Commission Meeting for the Town of Washington.

Murgio/21 New Preston Hill Road/Section 13.14/Request to Renew Bed and Breakfast Special Permit:

Ms. Hill stated that she has a letter requesting the renewal, the fee has been paid and that there were no complaints filed for this property.

Mr. Owen stated that the permit would be extended for another three years. There were no further questions or comments.

Motion:

to approve Special Permit: Section 13.14 submitted by Murgio to Renew Bed and Breakfast Special Permit, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Possible Revision of Zoning Regulations Re: Transfer of Special Permit for Eating and Drinking Establishments under Specific Circumstances:

Ms. Hill stated that she and Mr. Ajello, ZEO, discussed the possibility of revising the Zoning Regulations to provide the ability to transfer a Special Permit for Eating and Drinking Establishments if a new restaurant sets up business in the a space where there had already been a restaurant, same type of restaurant, same seating capacity and no exterior changes. Mr. Ajello suggested that there should be a provision added to the Zoning Regulations that when a new building is not being constructed or an existing building is not being remodeled into a restaurant and when it's exactly the same business, a transfer of the Special Permit should be allowed. There was a discussion regarding if this should be done administratively. Ms. Hill stated that she thought that a line should be added to the regulations and it could be handled the way a renewal for a Special Permit upon request for a Bed and Breakfast is handled. Mr. Averill agreed that it could be done as expeditiously as the process of requesting a renewal for the Bed and Breakfast. Mr. Owen stated that he and Ms. Hill would work on the language.

Motion:

to schedule a Public Hearing on April 26, 2010 to consider a Possible Revision of Zoning Regulations re: Transfer of Special Permit for Eating and Drinking Establishments under Specific Circumstances by Mr. Owen, seconded by Mr. Reich, by 5-0 vote.

Possible Revision of the Zoning Regulations/Section13.9/To Allow Inns on Town Roads – Definition of “Inn”:

Because the Town email was down, a brief recess was needed so that copies of the draft discussion documents could be made and circulated.

Motion:

to take a 10 minute break at 8:15 pm,
by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

8:22 pm discussion resumes.

Mr. Owen suggested defining Bed and Breakfast and Inn and removing the definition of Boarding House (section 21.1.10) in the definition section of the Zoning Regulations. He stated that if the Commission decided to keep Boarding House in the Regulations that the language would need to be clarified in section 13.14, which refers to a Room and Board, and he suggested basing the definition on the proposed Bed and Breakfast definition he submitted in his draft dated 2/22/10. He suggested that section 13.9 Tourist Home or Inn, sections 13.14.1, 13.14.4, 4.4.14, 7.4.12, and 8.4.12 be deleted. Mr. Owen stated that in section 15.2 Number of Parking Spaces and eliminating boarding house, rooming house, or tourist house. He suggested that the Commission tailor the regulations regarding Inns for each district individually where Inns are allowed. He stated that the Commission should consider a way to place a limit on the seating in an Eating and Drinking

Establishment associated with the Inn related to occupancy of the Inn so it would not make it possible for someone to open an establishment that is essentially a restaurant in a residential district by using the Inn designation. He stated another use to consider would something similar to the residential conversion of an older home in districts such as the Washington Green in which Inns would be permitted under specific conditions such as that the building be constructed sometime prior to 1935. He stated that inns should continue to be allowed in the Lake Waramaug District and that they continue to not be allowed in the Marbledale and Woodville Business Districts. Mr. Averill stated that he thought the basic premise of Mr. Owen's draft was good. He stated that under the R-1 District, Section 4.4.1.b, he thinks a lodging capacity of 75 was too high and under Section 4.4.1.d that the eating and drinking establishment seating capacity should be the same as the overnight lodging capacity. Mr. Owen stated that he personally did not want to change the language to the extent that it would make the Mayflower Inn a nonconforming use. There was a discussion regarding whether the Mayflower Inn had been considered a nonconforming use in the past. Mr. Averill stated that he did not see how the Zoning Commission could logically use the Mayflower Inn as a template for this revision. Mr. Owen stated that the Mayflower Inn has been an asset of this Town over the years and has been allowed to expand and as a result, stay successful. Mr. Fitzherbert stated that he agreed that the Mayflower Inn should not be made into a nonconforming use. Mr. Owen stated that he understands Mr. Averill's point and that the Town could treat the Mayflower Inn as they treat the existing Golf Courses in Town. Mr. Shapiro's memo regarding Definition of an "Inn" dated February 22, 2010 was discussed. Mr. Owen stated that he thought the Zoning Regulations should avoid limiting the access to the eating and drinking establishment and other facilities associated with the inn to only the guests of the inn. He stated that he thought this was unenforceable and it would be an unreasonable burden to the business establishment and the people of the Town of Washington. He stated that he would rather find ways to limit the scale without limiting the access by calculating capacity limitations of these facilities related to the overnight lodging capacity. Mr. Fitzherbert stated that he feels that the Special Permit Process has been successful and will continue to be successful as long as it stays subjective and not objective. He stated that his main concern was the precedent that creating these objective criteria for inns would be set and how it would affect the Special Permit application process in the future for places such as schools, churches, museums and libraries. Mr. Fitzherbert stated that another concern he had with Mr. Owen's draft was under Sections 4.4.1c and 6.4.14.c regarding boundaries. He stated that he did not agree with the setback being 100 feet. Mr. Owen stated that maybe this is something that needs to be decided on a case-by-case basis. Mr. Averill agreed with Mr. Fitzherbert and suggested that the setback requirements should be made for new structures. Ms. Hill stated that a lesser front yard setback would allow the use of some older buildings and there could be the opportunity to have parking in the rear of the property, which would help maintaining rural character of the neighborhood.

There was a discussion regarding the difference of inns and institutional businesses (i.e. schools, churches). Mr. Fitzherbert stated that all of the schools in the area have increased the number of students and if schools were locked into a number of how many students they could have, they would be closed right now. Mr. Owen stated that, in the future, he would like the Zoning Commission to consider looking at the issue of lot coverage differently for schools, and adjust the Regulation to permit greater density for certain uses, such as schools, rather than enforce the existing narrow lot coverage requirements of the Town.

Mr. Abella stated that he likes Mr. Owen's draft but he thought that the minimum size of a 5 acre lot seems rather small. Mr. Owen stated that this is what is in the current regulations about inns. Mr. Owen stated that the Town would like to make it possible to have a small inn in Town and that the total lodging capacity should not exceed 2 people per acre. Ms. Hill suggested that the acre-per-person issue be looked into a little further. Mr. Owen stated that he agrees with Mr. Fitzherbert that the Zoning Commission doesn't want to allow a use and then make this use impossible to conduct this business. Mr. Dubois stated that he liked Mr. Shapiro's definition of an inn and he 'could live with'

Mr. Owen's proposed definition but, was not sure about using the words 'small country hotel, country resort, or similar facility' in the definition. Mr. Owen stated that this is what is meant by 'Inn' in the Town of Washington and he thinks that the definition should reflect what the Town has considered to be an inn in the past. Mr. Reich stated that he thought a size word, such as small, was unclear. There was a discussion regarding the language and clarifying size. Mr. Averill stated that he agreed with Mr. Shapiro's definition of an inn and has made some suggestions. He stated that in Mr. Shapiro's definition he states that the number of rooms should not exceed 30. Mr. Averill stated that he feels strongly that the capacity should not exceed 50 people and he feels that the capacity for the restaurant and the bar should be 2 times the inns overnight capacity in the R-1 District. Mr. Fitzherbert stated that he did not expect to see these numbers reached. He stated that he didn't think these numbers would make it impossible for a business to operate. Mr. Reich stated that the numbers would be difficult to enforce. Mr. Owen stated that there should be a way to calculate the size of the eating and drinking establishment by using a formula based on the amount of overnight rooms. Ms. Hill stated that since the accessory health club would be open to the public, she liked that it would be limited in size. She stated that she had a problem with 'the total seating capacity of the inn's meeting rooms shall not exceed 100'. Ms. Hill stated that she does not see how this would be enforceable and suggested a maximum square footage instead. There was a brief discussion regarding how the capacity of a meeting room could be enforced. Mr. Fitzherbert stated that he would like to propose a motion to pass the draft that Mr. Owen submitted and take it to a public hearing. Mr. Owen stated that he would like to work on the draft. Many of the members stated that would rather have more time to refine specific provisions. Mr. Fitzherbert suggested that a special meeting be scheduled to move the process along. There was a discussion regarding how long this process should take. Ms. Hill stated that the language is very important and needs to be written thoughtfully. It was the consensus of the Commission that they would read the proposed definitions by Mr. Owen and Mr. Shapiro, and submit feedback to Ms. Hill prior to the next meeting.

Motion:

to continue Discussion of Possible Revision of the Zoning Regulations/Section 13.9/To Allow Inns on Town Roads – Definition of "Inn" at the next Regular Meeting of the Zoning Commission scheduled for March 22, 2010, by Mr. Averill, seconded by Mr. Fitzherbert, by 5-0 vote.

Privilege of the Floor

Mr. Peacocke asked if Mr. Owen read the letter he sent. He stated that he would like the Commission to consider the phrase 'small country hotel' between now and the next meeting. He urged the members think carefully of what a corporation would try to apply for.

Mr. Charles asked if all the Commissioners of the Zoning Commission would be submitting comments and if these comment would be available on line for the general public. Mr. Owen stated that the entire Commission will have the opportunity to make comments and that he was not sure if they would be available on line. Mr. Charles stated that he understood that this was a lengthy process and appreciates the availability of information to the public and the ability for the public to participate.

Ms. Forese asked if there was a legal way to avoid having a chain hotel in town. Mr. Owen stated that the Special Permit process allows a great deal of latitude in controlling the things that the Town is most worried about.

Mr. Federer stated that he wanted the record to show that there were less than 20 people from the public at this meeting.

Mr. Dutton asked if there was a way to set deadlines for submission of information that is to be discussed at the meetings so that the Commissioners have time to review the information and possibly move the process along more expeditiously. Mr. Dutton stated that both definitions are reasonable but he does not agree with Mr. Shapiro's cap of 1 bedroom per acre not to exceed 30 rooms. He stated that there are large parcels in Town and a 30 room hotel would be 'miniscule' on these properties. He stated that a property owner with this size parcel has the potential to build an enormous house that could look like a 30 room hotel. Mr. Dutton stated that he feels this number needs serious consideration by the Zoning Commission. Mr. Owen stated that the Zoning Commission should consider if there are properties large enough to conceal a use of any size and also how it would impact the Town. He stated it is difficult to formulate the numbers.

Mr. Dutton asked if the Town has a regulation that governs the size of a new school. He stated that he thought it was arbitrary to say that an inn would not be allowed in Woodville but a school that size is allowed.

Communications

There were no communications to discuss.

Enforcement

The Commissioners look at Mr. Ajello's Zoning Enforcement Report dated 2/22/10. There were no questions or comments.

Adjournment

Motion: to adjourn at 9:43 pm
by Mr. Averill, seconded by Mr. Fitzherbert, by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk
3/1/10