

February 23, 2009

Public Hearings - Regular Meeting

Present: Gary Fitzherbert, Ralph Averill, David Owen, Valerie Friedman

Alternates Present: Andy Shapiro, Harry Wyant

Absent: Mr. DuBois, Lou Abella

Staff Present: Janet Hill, Shelley White

Others Present: Mr. Klauer, Mr. Szymanski, Engineer, Atty. Robert Fisher, Brian Neff, Engineer, Darryl Wright, Donna Wright, Mr. & Mrs. Harry Wright, Dick Carey, Jim Ross, Phil Dutton, Wendy Federer, Peter Talbot, Janet Wildman, Chris Charles, John Harris, Mr. Antosh, Residents Mr. Owen called the meeting to order at 7:35 pm.

PUBLIC HEARINGS

Seated: Mr. Owen, Ms. Friedman, Mr. Averill, Mr. Fitzherbert, Mr. Wyant

Revision of the Zoning Regulations/Section 10.4.1a/Addition of Eating and Drinking Establishments to Uses Permitted by Special Permit in the Woodville Business District:

Ms. Friedman read the legal notice published in Voices on 2/11/09 & 2/21/09. Mr. Owen read the list of documents in the file. Mrs. Hill read her administrative report dated February 23, 2009. Mr. Owen asked if the commission would like to try and define “restaurant” and “eating and drinking establishments” at this time. It was agreed the regulation would be revised at this time and the definitions would be revised in the future.

Motion: to close the Public Hearing to consider the revision of the Zoning Regulations/Section 10.4.1.a/Addition of Eating and Drinking Establishments to Uses Permitted by Special Permit in the Woodville Business District, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote

Mark & Linda Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Ms. Friedman read the legal notice published in Voices on 2/11/09 & 2/21/09. Ms. Hill recommended the public hearing be continued for two reasons: 1) Revised plans had just been submitted and have not been reviewed, and 2) The notifications were just sent out to the Towns of Warren and Litchfield and they need enough time to comment. She stated the applicant must submit a written request for an extension. Mr. Szymanski submitted the letter from the Conlon’s requesting an extension. He presented photos of the property and elevation drawings,

titled Garage Plans, by Wesley H. Quigley III, Torrington, CT.

Motion: to continue the Public Hearing to consider the Special Permit application submitted by Conlon for Zoning Regulation 13.11.3 - detached accessory apartment at 6 Valley Road to March 23, 2009, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Sen/116 Shearer Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Ms. Friedman read the legal notice published in Voices on 2/11/09 & 2/21/09. Paul Szymanski presented the elevation drawings and floor plans for the accessory apartment. He stated the Inlands/Wetlands Commission and the Health Department have approved the plan. The structure is less than 1200 sq. ft. The existing barn will be demolished and replaced with an accessory apartment. Ms. Hill stated that all paperwork has been submitted, 6 out of 8 green proof of certified mailing receipt cards have been received.

Motion: to close the Public Hearing to consider the Special Permit application submitted by Sen for Zoning Regulation 13.11.3 - detached accessory apartment at 116 Shearer Road, by Mr. Averill, seconded by Mr. Owen, by a 5-0.

REGULAR MEETING

Mr. Owen called the Regular Meeting to order at 7:55 pm

Regular Business

Mr. Owen proposed to amend the agenda in order to accommodate Mr. Fitzherbert who needed to leave early due to illness.

Motion: to amend the agenda to consider Executive Session before Pending Applications, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Mr. Fitzherbert asked if Mr. Owen would consider moving Privilege of the Floor as well. Mr. Owen stated he was apprehensive to do this because not all residents may be present that would like to speak and Privilege of the Floor was listed later on the agenda. Mr. Fitzherbert suggested that there be a one-minute time limit per person to make a statement. Mr. Shapiro stated he thought it was a good idea for residents to speak before the commission goes into executive session.

Motion: to amend the agenda to conduct item VI. Privilege of the Floor, prior to going into Executive Session, to solely discuss the topic of proposed mediation with Wykeham Rise, LLC. (allowing each speaker one minute), by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Consideration of the Minutes

Corrections:

Page 1: Others Present: Mr. Roguess should read: Mr. Rogness, Mr. Moore & Mr. Moore should read: Mr. & Mrs. Moore

Page 5: Other Business Continued last sentence in third paragraph should read: The commission agreed that clearer definitions ...

Page 6: Privilege of the Floor second to last sentence delete phrase:...he asked that this matter be put on the agenda for the next Zoning

meeting.

Motion: to accept the Zoning Meeting Minutes of January 26, 2009 as amended, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Mr. Owen stated he has talked to Atty. Zizka regarding the correction of the minutes. The correction to the minutes are published in the succeeding months on the website and the minutes themselves are never changed. Mr. Owen asked Atty. Zizka if we could publish the corrected minutes on the website. Atty. Zizka advised that the minutes could be replaced with the corrected minutes as long as the original minutes were kept on file in the Land Use Office.

Privilege of the Floor (1)

Mr. Owen asked if there was anyone from the public that would like to speak regarding the proposed mediation with Wykeham Rise, LLC. Atty. Fisher stated, on behalf of Wykeham Rise, LLC he filed a request for mediation of the Zoning Appeal under section 8-8 of the statutes. He felt the parties could come to a compromise that 'everybody could live with'. He stated this process is not binding but it does require cooperation between all parties involved to be successful and it will avoid spending time, effort and money in court. Harry Wright stated he thought mediation was a good idea given the issue could be resolved within the town. Janet Wildman distributed an article she had submitted to The Litchfield County Times in support of mediation. Mr. Dutton stated it would certainly save the town some money and he urges the Zoning Commission to take this as another opportunity to revisit this issue in a new light. Mr. Charles asked if the mediation would be open to the public. Mr. Owen stated he believed it was between the parties. Mr. Antosh stated he was in favor of the low-income housing proposal submitted by Mr. Klauer. Mr. Talbot asked if the Zoning Commission would still be looking at the criteria of a special permit. Mr. Owen stated it doesn't suspend the Zoning Regulations and that any decision mediated between parties would not be binding. The conclusion is sent to a judge who then decides whether the decision is acceptable or not. Mr. Carey asked how a mediator is chosen. Mr. Owen was not sure however, it would probably have to be someone that all parties agree on.

Executive Session

Motion: to go in to Executive Session for the purpose of discussing mediation/pending litigation/Wykeham Rise, LLC, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Motion: to come out of to Executive Session for the purpose of discussing mediation/pending litigation/Wykeham Rise, LLC, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

8:50 pm

Members of the public enter back into Land Use Meeting Room.

Motion: to agree to participate in the proposed mediation for Wykeham Rise, LLC. if all the other parties involved also agree to participate, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

Mr. Owen stated this has never been done before and he feels the Zoning Commission has the obligation to the town and the applicant to

pursue this avenue in order to avoid or postpone a court battle. Mr. Owen asked if there were any more questions or comments from the public. .

8:55 pm, Mr. Fitzherbert exits.

Pending Applications

Mark & Linda Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:
Public hearing continued for March 23, 2009

Sen/116 Shearer Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:
Motion: to approve the Special Permit application submitted by Sen for Zoning Regulation 13.11.3 - detached accessory apartment at 116 Shearer Road, by Mr. Owen, seconded by Ms. Friedman, by 5-0.

New Applications

Harris/258 New Milford Turnpike/Special Permit: 1) Section 9.4.1.d/Restaurant/Storage Addition, Site Improvements 2) Section 9.6.8: Building Setback from Residential Property:
Mr. Harris presented the elevation and floor plan drawing for the White Horse Pub.

Motion: to schedule a Public Hearing on March 23, 2009 to consider the Special Permit application - Harris/258 New Milford Turnpike: 1) Section 9.4.1.d/Restaurant/Storage Addition, Site Improvements, 2) Section 9.6.8: Building Setback from Residential Property, by Mr. Owen, Seconded by Ms. Friedman, by 5-0 vote.

2M Properties/278 New Milford Turnpike/Special Permit: Section 9.4.1.h/Convert 2nd Floor Apt. to Office and Staff Area for Aspetuck Animal Hospital:

Motion: to schedule a Public Hearing on March 23, 2009 to consider the Special Permit application – 2M Properties/278 New Milford Turnpike: Section 9.4.1.h/Convert 2nd Floor Apt. to Office and Staff Area for Aspetuck Animal Hospital, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

LaVerge/226 Bee Brook Road/Special Permit: Section 13.13/Bed and Breakfast Establishment:

Motion: to schedule a Public Hearing on March 23, 2009 to consider the Special Permit application – La Verge/226 Bee Brook Road: Section 13.13/Bed & Breakfast Establishment, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Bennett/80 East Shore Road/Special Permit: Section 6.5/Addition to Dwelling within 50-75 ft. of Lake Waramaug:

Mr. Neff was present to represent this application. He explained how the proposed plan is to remove the existing roof to convert the house to a 2 story dwelling from a 1.5 story dwelling and construct an addition to the back of the house over where there is an existing walkway. Mr. Neff submitted a Storm Water Management & Landscape Plan, dated 2-21-09.

Motion: to schedule a Public Hearing on March 23, 2009 to consider the Special Permit application – Bennett/80 East Shore Road: Section

6.5/Addition to Dwelling within 50-75 ft of Lake Waramaug, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Other Business

Wright Electrical/14 Kinney Hill/ Request to Extend Special Permit: Section 13.16/Shop and Storage Use by Contractors and Building Tradesmen:

Mr. Owen read Ms. Hill's Administrative Review. Mr. Averill stated he drives by the location frequently and does not have a problem with renewing this Special Permit.

Motion: to approve the request for renewal to Special Permit of Wright Electrical/14 Kinney Hill: Section 13.16/Shop and Storage Use by Contractors and Building Tradesmen subject to the condition that upon inspection the ZEO does not find any violations, by Mr. Owen, seconded by Mr. Shapiro, by 5-0 vote.

Preliminary Discussion /Wright/Section 12.14/Noise Generating Equipment:

Mr. Darryl and Ms. Donna Wright were present to discuss issues regarding installation of generators. Ms. Wright explained Wright Electric has a customer that would like to replace a previously removed generator. She explained all the equipment to hook up a generator still exists in the same location. Mr. Wright explained the generator was not on a concrete pad and it was encased in prefabricated housing, located 25 ft. off the property line and is 25 ft. from the garage. The Wrights asked for clarification of the definition of 'structure principally served' in the Zoning Regulations. Ms. Wright asked what the difference was between the 'principle building' and 'structure principally served'. Mr. Wright stated the CL&P meter is on the garage/office and the generator will be used to power this structure. The commission asked if the generator would be attached to the house. Mr. Wright confirmed it was hooked up to the house and estimated the location of the generator is approximately 40-50 feet away from the house. Mr. Owen stated the regulation tries to prevent a noisy piece of equipment being installed too close to a neighbor as well as giving the owner incentive to reduce the noise since the equipment would be located closer to their home. Mr. Wright brought up different scenarios as to why it may not be necessary or best to locate a generator within 25 feet of a house and urged the commission to consider other factors regarding locating generators. Mr. Owen stated he believed the original generator never had a zoning permit. Ms. Hill stated that in removing the generator the owner abandoned his use of the generator. Mr. Owen stated if the generator is to serve the garage (the structural principally served) and not connected to the house then it would be okay to locate it in the area of the previously removed generator.

Petition to Amend Zoning Regulations/Section 11.7.1/Height of Principal Buildings and Structures in Historic Districts/Withdrawn:

(Letter dated 2/13/09 on file in Land Use Office)

Mr. Talbot stated the Historic District Commission agreed to withdraw their petition to amend this zoning regulation. He wanted confirmation that the Zoning Commission approvals for work in the Designated Historic Districts be contingent upon the HDC review and approval. Ms. Hill stated that another issue is that HDC would have to approve parking in a Designated Historic District before Zoning approval according to CT State Statutes.

Revision of Zoning of Zoning Regulations/Addition of Eating and Drinking Establishments to Uses Permitted by Spec. Per. In Woodville Business District:

Ms. Hill stated there were no objections from the Planning Commission to amend this regulation.

Motion: to approve the proposed revision of the Zoning Regulations: Section 10.4.1.a to add Eating and Drinking Establishments as a use

permitted by Special Permit in the Woodville Business District, by Mr. Owen, seconded by Mr. Shapiro, by 5-0 vote.

Revision of Zoning Regulations/Section 12.14/Noise Generating Equipment:
Public Hearing scheduled for March 23, 2009 Zoning Meeting.

Revision of Zoning Regulations/Business – Institutional Signs in Residential Districts:

Ms. Hill stated the issue of lighting should be included in the discussion. Public Hearing scheduled for March 23, 2009 Zoning Meeting.

Discussion Possible Revision of Section 6.3.2/Permitted Accessory Uses in R-3 District:

Ms. Hill stated this is still being researched.

Revision of Section 9.2.3/Addition of 9.4.1.f: Office Establishments, to Uses Permitted in Marbledale Business District under Section 9.2.3:

Public Hearing scheduled for March 23, 2009 Zoning Meeting.

Preliminary Discussion of Definition of An Accessory Apartment:

Mr. Szymanski read the definition of an accessory apartment. He stated his interpretation of this definition is that one would have to have the ability to cook in the building. Mr. Owen stated that this could not be rented out to someone as an apartment and that if it had a kitchen it would be considered an accessory apartment. Ms. Hill asked for if there was a clear definition for 'kitchen' in relation to an accessory apartment.

Communications

3/08 letter from Mr. Talbot re: Lot Coverage and Creation of Parcels:

Ms. Hill stated she has been in contact with Atty. Zizka and hope to have answers for the March 23, 2009 meeting.

2/4/09 letter from Ms. Anderson re: Multifamily Housing Regulations:

The Zoning Commission read Ms. Anderson's letter.

2/23/09 letter from Mr. Sedito re: Windmills:

Mr. Owen asked that the commission take this letter home and review it.

Enforcement

The Zoning Commission read the ZEO report.

Privilege of the Floor (2)

Mr. Charles asked about the process of mediation. Mr. Owen stated he was not completely sure how the process would proceed. Ms. Federer asked if Atty. Zizka should come and talk to residents. Mr. Owen stated that would be possible.

Adjournment:

Motion: to adjourn at 9:55 pm by Mr. Owen

FILED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk
3/4/09