

February 25, 2008

MEMBERS PRESENT: Mr. Abella, Mr. Averill, Mrs. Friedman, Mr. Owen

MEMBER ABSENT: Mr. Fitzherbert

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

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Atty. Fisher, Mr. Papsin, Atty. Coploff, Mr. Moore, Mr. Farnen, Mr. Bohan, Mr. Federer

Mr. Owen called the meeting to order at 7:34 p.m. and seated Members Abella, Averill, Friedman, and Owen and Alternate Wyant for Mr. Fitzherbert.

PUBLIC HEARINGS

James/79 West Shore Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

Mr. Owen called the Public Hearing to order at 7:35 p.m. Mrs. Friedman read the legal notice published in **Voices** on 2/13 and 2/20/08. Mr. Owen then read the list of all the documents in the file and the 2/25/08 ZEO Report.

Atty. Fisher submitted an affidavit signed by the prospective owner of the property that he would reside on the premises for the duration of the permit and a photocopy of the certified mailing receipt cards. He then read his 2/25/08 letter to Mr. Owen, which specified how the proposed apartment would comply with each provision in Section 13.11.3 and he noted the apartment would be 1000 sq. ft.

Mr. Shapiro asked how large the primary dwelling was. Reading from the Assessor's field card, Atty. Fisher said it had 4649 sq. ft. above grade, which would make the proposed apartment less than 25% the size of the house. The apartment floor plan was reviewed.

Mr. Ajello noted it had been the future owner, not the present owner applying for the permit, who signed the affidavit. The Commissioners did not think this was a problem because he would be the one residing on the property when the apartment was in use.

There were no questions or comments from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. and Mrs. James for a detached accessory apartment at 79 West Shore Road. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Mr. Owen closed the public hearing at 8:44 p.m.

Moore/25 Litchfield Turnpike/Special Permit: Section 13.16/Shop and Storage Use by Contractors and Building Tradesmen

Mr. Owen called the public hearing to order at 8:45 p.m. Mrs. Friedman read the legal notice published in **Voices** on 2/13 and 2/20/08. Mr. Owen then read the list of documents in the file and the 2/25/08 ZEO Report.

The map, "Site Analysis Plan," by Mr. Alex, revised to 11/16/06 and the portion of this map with proposed screening and the buildings and outside storage area labeled by Mr. Moore were reviewed.

Mr. Moore stated that he had not submitted the certified mailing receipts, but would bring them in the next day. Mr. Ajello noted that the two neighbors most concerned about the ongoing operation had received their notification. Mr. Griffith sent an email and Mr. and Mrs. Updegraff were present. It was noted that none of the green certified receipt cards had been received.

Mr. Owen read Mr. Moore's statement regarding how the proposed landscaping business would comply with each requirement of Section 13.16. Several of the points were briefly discussed. 13.16.3: Mr. Moore had submitted a list of eight commercial vehicles that would be used and said no additional off street parking would be created. Mr. Ajello noted there would also be employee vehicles parked on site during the day. 13.16.4: It was noted that a maximum of 5000 sq. ft. of outside storage was allowed and that no storage was allowed within the setback and that this had been properly indicated on the map. Mr. Ajello also noted there would be no outside storage in wetlands, that potentially hazardous materials such as muriatic acid and fertilizers would be stored inside the storage shed, and that materials such as bricks, gravel, stone, and sand would be stored on site. 13.16.4.e: It was noted that Mr. Moore had proposed a row of evergreens to screen the outside storage from the Updegraff property, but that he had offered to erect a fence along that portion of the property line if the Updegraffs preferred.

Mrs. Friedman read the 2/22/08 email from Mr. Griffiths in which he expressed concerns about any activities that could adversely impact the residential character of the neighborhood and about business activity in the early morning, evening, and on weekends.

Mr. Shapiro asked if the proposed use was clearly subordinate to the residential use of the property. Mr. Ajello responded that approximately an eighth of an acre of the 6.2 acre property would be occupied by the business and that the owner resided on the property with his family.

Mr. and Mrs. Updegraff noted their concerns were similar to Mr. Griffiths'. They thought the use of natural screening would be more effective than a fence. Mr. Moore said he planned to plant Norway Spruce, hemlocks, or a combination of 7 to 8 ft. tall trees, approximately 10 ft. apart. He noted that until they grew, you would be able to see through them. Mr. Owen said that in the past the Commission had conditioned approvals upon the installation of natural screening that was satisfactory to the abutting neighbors. Mr. Ajello noted that the area in front of the garage doors would be used commercially and so requested that the screening be extended to buffer this area as well.

Mr. Ajello noted that Shop and Storage Use Special Permits must be renewed every two years and so said that if the neighbors experience any problems they should file their complaints on record so that they can be considered when the permit is up for renewal.

Hours of operation were discussed. Mr. Moore said his normal hours vary depending upon the season and that during the summer he sometimes works seven days a week.

Mrs. Friedman noted she had observed a plastic shed when she had inspected the property. Mr. Moore said this was temporary and would be removed upon the completion of the barn.

It was noted that any outdoor lighting must comply with Section 12.15. Mr. Owen said that flood lights should be shielded so the bulbs are not visible from the road, directed downward, and ideally, on timers so they are not on all of the time.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.16 submitted by Mr. Moore for Shop and Storage Use by Contractors and Building Tradesmen at 25 Litchfield Turnpike. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Mr. Owen closed the public hearing at 8:17 p.m.

These public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot

REGULAR MEETING

Mr. Owen called the Meeting to order at 8:18 p.m.

Consideration of the Minutes

The 1/28/08 Regular Meeting minutes were accepted as corrected. On page 2, the sentence beginning, "He noted an additional...." in the 5th line from bottom was changed to: He noted that one proposed building had been relocated to the north of the existing driveway entrance.

MOTION: To accept the 1/28/08 Regular Meeting minutes as corrected. By Mr. Owen, seconded by Mr. Averill, and passed 5-0.

Pending Applications

Moore/25 Litchfield Turnpike/Special Permit: Section 13.16: Shop and Storage Use by Contractors and Building Tradesmen:

Conditions of approval were briefly discussed. It was the consensus that screening agreeable to both parties and a limitation on the hours of operation would be appropriate. It was also noted that the list of names and addresses of adjoining property owners, the proof of certified mailings, and the green certified mailing receipt cards had not been received. It was noted that a condition regarding outdoor lighting would not be necessary because any outdoor lighting for the barn would be covered under the zoning permit issued in December 2007.

MOTION: To approve the Special Permit application: Section 13.16 submitted by Mr. Moore for Shop and Storage Use by Contractors and Building Tradesmen at 25 Litchfield Turnpike subject to the following conditions:

1. the hours of operation shall be limited to

7:00 a.m. to 7:00 p.m.,

2. the applicant shall plant and maintain a

vegetative buffer to create a reasonable barrier between his and the Updegraff property, the buffer shall be to the satisfaction of the Updegraffs, and if the applicant and neighbors are not able to come to an agreement on the buffer this matter shall be brought back to the Zoning Commission, and

3. proof of the required certified mailings to adjoining property owners shall be submitted to the Land Use Office before the Special Permit is issued.

By Mr. Owen, seconded by Mr. Averill, passed 5-0.

James/79 West Shore Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

MOTION: To approve the Special Permit application: Section 13.11.3 submitted by Mr. and Mrs. James for a detached accessory apartment at 79 West Shore Road. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

New Applications

Rumsey Hall School/200 Romford Road/Special Permit: Section 4.4.10/Second Dormitory, Faculty House, Extend Circular Driveway: Mr. Owen read the 2/25/08 ZEO Report. He noted that a variance for coverage was required for the proposed buildings and driveway and that the Zoning Commission's standard practice was to wait until the variance had been granted to schedule a public hearing. Mr. Farmen, Headmaster, explained that the information that had been missing from the variance application had already been submitted to the ZBA and said that the school was pressed for time since it wanted to have the dorm ready for the opening of school the September. Mr. Ajello noted that the Inland Wetlands Commission had requested that Zoning refer the stormwater management plans for this application to a consulting engineer for review. He said that all of the documentation supplied by Smith & Co. was very good, Rumsey had been

cooperative, and that the construction site was under control. Mr. Owen said then that a referral to the Town engineer was not necessary. The map, "Compilation Plan for ZBA Application," by Smith & Co., dated 2/7/08 and revised to 2/25/08 was reviewed and it was noted there were steep contours from the construction site down to Romford Road. Regarding the proposal to extend the circular driveway, Mr. Ajello said the Fire Marshal had recommended the driveway loop. The drainage system was discussed. Mr. Farnen said a separate drainage system was proposed for these proposed buildings. It was the consensus to schedule the public hearing for the

March 24th meeting, but Mr. Owen advised the applicant that if in the meantime the Zoning Board of Appeals denied the application, the Zoning Commission would deny the Special Permit application without prejudice. The public hearing was scheduled for March 24, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Laffont/128 Calhoun Street/Special Permit: Section 13.11.3/ Detached Accessory Apartment: Mr. Owen read the 2/25/08 ZEO Report. The Public Hearing was scheduled for March 24, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Other Business

Revision of the Zoning Regulations: Sections 13.11.1.A, 13.11.1.B Accessory Apartments: Mr. Owen circulated language he had drafted after receiving input from Atty. Zizka. Under the proposed revision, two apartments would be permitted per property by Special Permit only if one was attached and one was detached and one was deed restricted to preserve it as affordable housing. (See attached document for the specific language.) Mr. Owen noted that at the previous public hearing to consider revisions that would have restricted accessory apartments to only one per property, the public had not been supportive because it thought there was a need in Town for more affordable housing units. Mr. Owen said that the situations described at the hearing; housing needed for family members, the elderly, farm workers, etc., could qualify as affordable housing and that per the proposed regulation, a second apartment could be used as affordable housing without undermining soil based zoning. It was not thought that adopting the proposed revisions would result in a big change in the number of apartments in Town. It was the consensus of the commissioners to schedule a public hearing in May.

Revision of the Zoning Regulations: Section 13.9: Inns: Mrs. Friedman noted that until recently the Commission had interpreted the Regulations to mean that inns were permitted only on state highways, but that Mr. Owen had pointed out that this was not what was actually written. She said that at the last meeting the Commission had discussed a compromise to permit inns on state highways and on Town roads within the business districts. Mr. Shapiro and Mr. Averill thought this was a reasonable approach as inns could have restaurants or taverns, which could generate traffic. Mrs. Friedman asked whether revisions concerning architecture, the number of rooms permitted, or the deletion of the reference to tourist homes should be considered. Mr. Owen did not think that inns were a pressing matter and so recommended that the Commission make only one revision at this time; to require inns to be located on state highways. In addition, 13.9.1 will be included in 13.9 and the following sections will be renumbered. 13.9.3 will read, "The frontage shall be on a state highway and shall be a minimum of 500 feet." Mr. Federer asked what could be done to prevent an inn from acquiring additional parcels and then evolving into a much larger, multi faceted operation. Mr. Ajello suggested this could be controlled with a specific definition of "inn." A public hearing was scheduled for May to consider only the clarification that inns shall be located on state highways. Mr. Owen recommended that a subcommittee of interested commissioners tackle the remaining issues.

Revision of the Regulations/Section 16.5.1: Signs: It was noted that several meetings ago the Commission had agreed to revise Section

16.5.1 to state, "No sign shall be closer than 10 feet to any side property line." Mr. Owen pointed out that this would help to resolve the problem of wide right of ways along front boundary lines. A public hearing was scheduled for April. The current request by the Washington Club for a sign in The Green District, a residential district, was discussed. Currently, Section 16.4.1 permits one sign on residential lots only in residential districts. It was the consensus that the Commission would pursue revisions to permit limited signage for specific uses by Special Permit in residential districts. Inns and bed and breakfast establishments were two such uses given as examples.

Washington Club/92 Green Hill Road: Mr. Ajello presented a newspaper ad for renting out the Washington Club Hall and asked whether a private club hall in the residential district could be rented out to the public. Mr. Owen said that the club had been rented out for functions for years and this was a grandfathered use predating Zoning. He also said he thought it was good for the Town because there were few buildings here with the potential to be used in this way. Mr. Ajello asked if there was any question about whether the Club was a non profit organization. Mr. Owen responded that it was a non profit social club. It was the consensus that the renting out of the Club hall was not an issue because this activity predated Zoning.

Privilege of the Floor

Petition to Amend the Zoning Regulations: Section 21.1.37/ Definition of Lot Coverage: Atty. Kelly, representing Kent Greenhouse and Kelly and Trevenen, submitted the letter dated 2/25/08, which requested that Section 21.1.37 be amended by adding the following sentence, "Notwithstanding, driveways, parking areas and lots, and walkways, which are constructed of engineered pervious materials systems are exempt from this definition, provided that certification installation in accordance with manufacturer's standards is provided by a certified installer or licensed engineer." He said that not counting them in the lot coverage calculation would provide property owners with an incentive to install pervious driveways and walkways. He presented several samples of pervious engineered materials that could be used. He also submitted some past Zoning Commission minutes, which indicated that in 2003 the Commission had discussed possible incentives for impervious driveways. Mr. Owen said this was a good issue to consider, noting that he had attended an environmental seminar on this topic and had brochures on the subject. He noted, however, that the Commission would carefully study the matter to be sure that granting an increase in coverage would not result in a problem. For example, he cited the dust problem in the parking lot at 16 Church Street, which resulted in its being paved. Mr. Ajello noted the downside would be maintenance problems; the installed surfaces would have to be maintained so they would continue to function properly. Mr. Owen and Mr. Ajello will meet with Atty. Kelly to discuss the petition before the next meeting. It was noted the petition would be officially received at March 24th meeting.

Mr. Papsin, Mygatt Road, voiced his concern about the increased hours of operation at the Citgo Station at 210 New Milford Turnpike, because its excessively bright lights were now on from 5:00 a.m. until 10:00 p.m. Mr. Averill agreed that the lighting was "obnoxious." Mr. Ajello noted there were also mercury vapor lights with no shields on poles at the storage facility and at Dowler's Garage that are excessively bright and shine toward Mygatt Road. Mr. Papsin asked the Commission to contact CL&P as it did several years ago to ask again that these lights be lowered, shielded, and directed downward. Mr. Papsin also asked if there was any provision in the Regulations that would protect nearby residences from businesses expanding their hours. He said this was a problem both along Rt. 202 and elsewhere in Town and so asked for revisions to address it. Mr. Owen agreed that the canopy lights at the gas station were a nuisance because they light up the whole area, and a safety issue because it takes a long time for a driver's eyes to recover from their glare. He also agreed the CL&P lighting was inappropriate and dangerous because it shines in your eyes as you drive west on Rt. 202 as well as incredibly inefficient as it does not do the job that its intended to. Mr. Owen asked Mr. Averill to research the CL&P lighting. Mr. Papsin also complained about the 150 watt flood

lights on Dr. Kane's office and the lights at the state DOT property, which are on all day as well as all night. Mr. Owen thought that it was time the Commission tackled the problem of outdoor lighting in the commercial districts. While it was noted that the existing lighting would be grandfathered, it was thought that the Commission would persuade some of the business owners to install more appropriate lighting, especially if there was support from the Board of Selectmen. Mrs. Hill suggested that Section 13.1.b.8 regarding nuisances be used to control existing lighting. Mr. Ajello was directed to send a letter to the owners of properties with problem outdoor lighting to inform them that complaints have been received and to persuade them to take corrective measures.

Mr. Papsin expressed his concern about drainage for the Moore Special Permit for Shop and Storage Use should Mr. Moore wash his vehicles on site. Mr. Ajello said there would be no plumbing in the building.

Revision of the Zoning Regulations/Section 12.15.4, 12.15.9/ Outdoor Residential Lighting: Mr. Owen proposed to add to Section 12.15.4 that no outdoor lighting may be mounted on trees or other vegetation. He noted this had been in the original draft, but had been deleted. Since then he noticed that a number of the worst examples of outdoor lighting in Town are mounted in trees. In 12.15.9 there had been a typo and the word, "not," had been omitted. He read the proposed revised language for the non binding guidelines. All of the commissioners agreed to proceed with the proposed revisions. A public hearing was scheduled for May. Mr. Averill noted that the lights in the J.D. Tucker parking lot are on all night. Mr. Ajello will contact the owners.

Revision of the Zoning Regulations/Section 12.14/Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment: Mr. Owen noted when it had dealt with the Rumsey Hall School request for a variance for noise generating equipment, the ZBA had suggested that a stockade fence be built around the generator. Mr. Ajello pointed out that in that case there was no significant impact to neighboring properties. Mr. Owen responded that the Regulations state that there must be **less** impact to neighbors if the equipment is to be moved farther than 25 feet from the structure principally served. He said the intent of the Regulations was to require this equipment to be close to the homeowner so that he would keep it quiet. Mrs. Friedman noted that the ZBA had granted many variances of this requirement. Mr. Owen reported that he had spoken with an acoustical engineer who advised him that there is a small device, a broad band noise generator, which can be used so that you can measure the noise generated with a decibel meter. He proposed to retain the requirement that in order to be moved farther than 25 feet from the principal structure served the equipment must have less impact on the neighbors and to add a provision regarding how this must be proven. Mr. Owen noted that the Zoning Regulations had not stated that less impact had to be proven, which resulted in the ZBA loosely interpreting this section. The commissioners thought the proposed language was an improvement because it would require applicants to use a specific method to prove that there would be less impact to neighbors if the equipment was moved and also thought that there would probably be fewer variance applications under this section. (The proposed language is attached.) This will be discussed again at the next meeting and Mr. Owen will ask Mr. Sedito, Chairman of the ZBA, for his input.

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

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator

CAPS = new

13.11 Accessory Apartments.

13.11.1 Intent. It is the intent of the Zoning Commission to permit property owners to create accessory apartments to provide small-scale housing for a variety of possible occupants. Such occupants may include relatives of the property owners, caregivers, guests of the property owners, the elderly, individuals, couples, and small families with limited income or limited housing needs, and others. **NO MORE THAN ONE ACCESSORY APARTMENT SHALL BE ALLOWED PER PROPERTY, EXCEPT THAT BY SPECIAL PERMIT A SECOND APARTMENT MAY BE ALLOWED IF:**

A. ONE OF THE APARTMENTS IS ATTACHED AND THE OTHER IS DETACHED, AND

B. ONE OF THE TWO APARTMENTS IS DEED-RESTRICTED SUCH THAT IT MUST BE RENTED AT A PRICE THAT WILL PRESERVE IT AS AFFORDABLE HOUSING. "AFFORDABLE HOUSING" IS DEFINED AS HOUSING FOR WHICH PERSONS AND FAMILIES PAY THIRTY PERCENT OR LESS OF THEIR ANNUAL INCOME, AND SUCH INCOME IS LESS THAN OR EQUAL TO EIGHTY PERCENT OF MEDIAN INCOME. "MEDIAN INCOME" IS DEFINED AS THE LOWER OF THE MEDIAN INCOME FOR THE STATE OR THE MEDIAN INCOME FOR THE AREA IN WHICH THE TOWN OF WASHINGTON IS SITUATED, AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AFTER ADJUSTMENTS FOR FAMILY SIZE. SUCH PERMIT SHALL BE VALID FOR AS LONG AS THE DEED RESTRICTION REMAINS IN EFFECT.

13.11.2 Accessory Apartment, Attached.

a. No more than one attached accessory apartment shall be permitted per property.

13.11.3 Accessory Apartment, Detached.

a. No more than one detached accessory apartment shall be permitted per property.

16.5. Non Residential District Signs. The following signs are permitted in non residential districts:

16.5.1 No sign shall be closer than 10 feet TO any SIDE property line.

12.15 Addition of Section 12.15 re: outdoor lighting in residential districts effective 4/14/07 **Outdoor Lighting in Residential**

Districts. Nighttime darkness is a vanishing natural resource. Excessive or poorly designed outdoor lighting unnecessarily brightens the nighttime sky, emits objectionable illumination visible on other properties, poses a safety risk to pedestrians and drivers, disturbs natural habitats, and is not in keeping with the rural character of the Town. The purpose of these regulations is to permit reasonable illumination of outdoor areas during their active use, while reducing negative impacts.

12.15.1 All exterior lighting shall be shielded and aimed so that the lamps (bulbs) or other light sources cannot be seen from beyond the property served. No exterior lighting may be used in a manner that produces a bloom or a direct glare visible beyond the property served. These requirements can be met by using "Dark-Sky Friendly" exterior lighting fixtures approved by the International Dark-Sky Association, or fixtures similar to the "Fixtures that do meet the requirements of 12.15.1" in the chart in 12.15.10.

12.15.2 Nighttime outdoor activities may be illuminated only during periods when the activities are underway.

12.15.3 Decorative lighting of trees, other vegetation, ponds, land forms, steeples, structures, and other property features is prohibited. (See traditional holiday exception, 12.15.8). American flags and their flagpoles may be illuminated; no flagpole may be illuminated when its flag is not flying

12.15.4 No light fixture may be aimed at the sky or toward any area, structure, or surface that is not situated on the property. **NO LIGHT FIXTURE MAY BE MOUNTED IN, OR ATTACHED TO, A TREE OR OTHER VEGETATION.**

12.15.5 Security lighting is permitted only if it is directed toward the structures being protected, not away from them. This requirement can be met by wall-mounted fixtures only if the wall-mounted fixtures are aimed directly downward and properly shielded.

12.15.6 No exterior light source may be installed more than 15 feet above grade or more than 30 feet from the object or area that it is intended to illuminate.

12.15.7 Moving lights, lights producing varying intensities or changing colors, and search lights are prohibited.

12.15.8 Traditional decorative holiday lights may be operated temporarily, without a permit, between Thanksgiving and January 31.

12.15.9 Non-binding guidelines and recommendations. Residents are encouraged to use lamps (bulbs) of the lowest effective wattage, and to use sensor-activated fixtures whenever practical. Studies have shown that most security lighting is self-defeating because it creates deep shadows and blinding glare, **OR BECAUSE IT HELPS CRIMINALS BY ILLUMINATING REMOTE AREAS OR STRUCTURES THAT CANNOT BE OBSERVED BY PASSERSBY OR PATROLING LAW ENFORCEMENT OFFICERS.** Walkway lighting usually works better when it is mounted **CLOSE TO THE GROUND RATHER THAN** at the eyelevel of pedestrians. **EMPTY PARKING LOTS DO NOT NEED TO BE ILLUMINATED AT NIGHT.** Turning off unnecessary exterior lighting reduces energy consumption and saves money. Keeping exterior lighting to a minimum is neighborly, and it helps to preserve the rural character of our town.

12.15.10 Lighting Fixture Chart.

12.14 Addition of Section 12.14, Noise generating equip., effective 11/26/99; revision of 12.14 - 12.14.3; add purpose, increase setback distances, effective 11/18/02 **Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment**. The purpose of this section is to limit the impact of noise generating equipment on neighboring properties and to give the owners of noise generating equipment an incentive for reducing the noise produced by equipment they own and operate for their own benefit. THE REQUIREMENTS OF 12.14 ARE MEANT TO BE CLEAR AND STRAIGHTFORWARD, AND TO BE COMPREHENSIBLE TO NON-EXPERTS; TO THIS END, COMPLIANCE WITH SECTIONS 12.14.1, 12.14.2, AND 12.14.3 CAN BE DETERMINED WITH A MEASURING TAPE.

12.14.1 All generators, air conditioners, and other noise generating equipment installed in a fixed location (except pool filters and related equipment; see 12.14.2) shall be situated within twenty-five (25) feet of the structure principally served.

12.14.2 All pool filters, pool heaters, and related equipment shall be situated within fifty (50) feet of the pool served. Addition of 12.14.5 re: Special Exceptions for noise generating equipment effective 2/12/05

12.14.3 All generators, air conditioners, pool filters, and other noise generating equipment shall be situated nearer to the structure principally served than to any building line (defined in Section 21) ON ANY ADJACENT LOT.

12.14.4 All noise generating mechanical equipment and the structures that enclose them are considered structures under the definition of structure in Section 21 of the Zoning Regulations.

12.14.5 By Special Exception application to the Zoning Board of Appeals, a request may be made for generators, air conditioners, pool filters, and other noise generating equipment to be situated, under certain circumstances, farther from the structure principally served than is specified under Sections 12.14.1, 12.14.2, and 12.14.3. In order to be granted such a Special Exception, an applicant must ~~PROVE demonstrate to the satisfaction of the Zoning Board of Appeals~~ that placing the noise generating equipment in the proposed location would have less noise impact on neighboring properties than would placing it in accordance with Sections 12.14.1, 12.14.2, and 12.14.3. THE APPLICANT SHALL MAKE THIS PROOF BY EMPLOYING AN ACOUSTICAL ENGINEER, ACOUSTICAL CONSULTANT, OR CIVIL ENGINEER TO MEASURE THE DECIBEL LEVELS OF A TEST NOISE THAT IS PRODUCED BY A BROADBAND NOISE GENERATOR OR COMPARABLE DEVICE AT BOTH THE PROPOSED SITE AND A SITE THAT COMPLIES WITH THE REQUIREMENTS OF SECTIONS 12.14.1, 12.14.2, AND 12.14.3. DECIBEL READINGS OF THE TEST NOISE PRODUCED AT EACH SITE SHALL BE TAKEN, AT INTERVALS OF NO MORE THAN ONE HUNDRED (100) FEET, ALONG ALL BUILDING LINES ON ALL ADJACENT LOTS, AND THESE READINGS SHALL BE RECORDED ON A SITE PLAN THAT SHOWS WHERE AND WHEN THEY WERE TAKEN. THE TEST NOISES GENERATED AT THE TWO SITES MUST BE IDENTICAL AND MUST BE LOUD ENOUGH TO BE DETECTED BY A DECIBEL METER AT ALL THE REQUIRED MEASUREMENT LOCATIONS. IN ORDER FOR THE ZONING BOARD OF APPEALS TO GRANT A SPECIAL EXCEPTION UNDER 12.14.5, THE DECIBEL READINGS AT ALL MEASUREMENT LOCATIONS MUST BE LOWER FOR THE TEST NOISE GENERATED AT THE PROPOSED SITE THAN FOR THE TEST NOISE GENERATED AT THE SITE THAT COMPLIES WITH THE REQUIREMENTS OF SECTIONS 12.14.1, 12.14.2, AND 12.14.3. AN ASSURANCE BY THE APPLICANT THAT THE PROPOSED NOISE GENERATING EQUIPMENT WILL BE ENCLOSED IN A SOUND-DEADENING STRUCTURE IS NOT SUFFICIENT TO MEET THE REQUIREMENTS OF SECTION 12.14.5. NEIGHBORING PROPERTY OWNERS MUST BE GIVEN AN OPPORTUNITY TO BE

PRESENT WHEN THESE NOISE READINGS ARE TAKEN. It shall be the responsibility of the applicant to send written notification of the pending noise test to all neighboring property owners. Neighboring properties shall include all adjoining properties plus any properties located across the street which, except for the street, would also be adjoining. Notification shall be by certified mail/return receipt requested, on forms provided by the Land Use Office. The applicant shall submit to the Zoning Board of Appeals a list of the names and addresses of all neighboring property owners and all certified mail receipts prior to the HEARING AT WHICH the APPLICATION IS CONSIDERED. Certified letters sent to adjoining property owners to inform them of THE NOISE TEST shall be postmarked no later than ten days prior to the test. The Zoning Board of Appeals shall not consider the application complete, nor may it approve such application, if the list and the receipts have not been submitted.