

February 26, 2007

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

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. and Mrs. Buonaiuto, Mrs. Arturi, Mr. Ross, Mr. Sommerset, Mr. Distel, Mr. Papsin, Mrs. Waterhouse

Mr. Owen called the meeting to order at 7:35 p.m. and seated Members Averill, Friedman, and Owen and Alternates Abella for Mr. Fitzherbert and Shapiro for the open seat. He informed the public that the Commission was now posting relevant documents on the Town web site, noting that the text of the proposed revisions to the Regulations and comments both for and against them were now available on line for review. He also said the full Verizon report on the cell tower application submitted to the Ct. Siting Council would be posted on 2/27.

PUBLIC HEARINGS

2 Wheaton Road, LLC./2 Wheaton Road/Special Permit: Sections 9.4.1.f and 9.5.3/Professional Offices and Relaxation of Setback

Mr. Owen called the public hearing to order at 7:39 p.m. and seated Members Averill, Friedman, and Owen and Alternates Abella and Shapiro for Mr. Fitzherbert and the vacant seat. Mrs. Friedman read the legal notice published in **Voices** on 2/14 and 2/21/07. Mr. Owen read the list of documents in the file and the 2/26/07 ZEO Report.

Mr. Distel, property owner, was present. He reviewed the map, "Property/Boundary Survey," by Mr. Alex, dated June 2006, revised to 1/22/07. He pointed out the location of each of the three buildings on the parcel and noted employees would use only two of the existing six parking spaces. He described the renovations underway to the inside of the "house" and said a handicapped access ramp was also required. Mr. Distel noted the ramp would be built in the least obtrusive location, which was to the side and rear of the building, and that it would be partially screened by an existing tree. He said the height of the professional office building, would be raised by one foot to allow room for the additional insulation required as a result of the preservation the existing timber frame roof.

Mr. Ajello explained a section of the raised roof and parts of the proposed ramp for the non conforming building would not meet the minimum setback requirements and so a Special Permit to relax these setback requirements had been applied for.

There were no further comments or questions from the commissioners or the public.

MOTION: To close the public hearing to consider the Special Permit application: Sections 9.4.1.f and 9.5.3 submitted by 2 Wheaton, LLC. for professional offices, handicapped ramp, raised roof, and relaxation of the setbacks at 2 Wheaton Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Mr. Owen closed the public hearing at 8:50 p.m.

Sachs/104 Kielwasser Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

It was noted the same commissioners, Averill, Friedman, and Owen and Alternates Abella and Shapiro were seated. Mrs. Friedman read the legal notice published in the 2/14 and 2/21/07 Voices. Mr. Owen read the list of documents in the file and the 2/26/07 ZEO report.

Mr. Ross, contractor, reviewed the plans; elevations and floor plans, for the proposed garage-barn by Mr. Nurnberger, sheets A1-A7, dated 4/25/05 and 10/30/05. He noted the application was to include a detached accessory apartment on the third floor of the barn to be constructed this spring. The apartment would not exceed 1200 sq. ft. Mr. Ajello noted the barn would not exceed the maximum 26 ft. permitted, measured to the peak from the average grade.

Mrs. Friedman asked if the apartment would include the entire third floor. Mr. Ajello did not know, but said he had requested that a note be added to the plans to state the livable floor area as defined by the state building code would not exceed 1200 sq. ft.

It was noted the primary dwelling on the property was 5500 sq. ft. and the barn would not exceed 75% of its footprint or volume.

There were no further questions from the Commission.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Sachs for a detached accessory apartment at 104 Kielwasser Road. By Mr. Owen, seconded by Mr. Shapiro, and passed 5-0.

At 8:05 p.m. Mr. Owen closed the public hearing.

Revision of the Zoning Regulations/Residential Outdoor Lighting/ Sections 12.15: New Section Re: Outdoor Residential Lighting, 4.3.8, 5.3.6, 6.3.6, 7.3.18, 8.3.19, 9.3.6, and 10.3.5 Re: Requirement that Outdoor Sports Courts in All Districts Be Unilluminated, and 14.2.e, and 14.3.1: Requirement that All Sketch Plans and Site Plans Submitted with Zoning and Special Permit Applications Include the Description and Location of All Exterior Lighting Fixtures

Mr. Owen called the public hearing to order at 8:06, noted the same Members and Alternates were seated, and read the list of documents in the file. He noted the same list would apply for the hearing to prohibit outdoor wood and other fuel burning furnaces.

Mr. Owen explained the Zoning Commission had worked on several drafts; the latest being his 2/22/07 revision, which had been posted on the Town web site. He noted that his revisions were in response to feedback from Mr. McGuinness of the NW Ct. Council of Governments.

Mr. Owen read the 1/21/07 letter to Mr. Martin from Mrs. Roberts, Planning Commission chairman, which commended the Zoning

Commission for its plans to implement the 2003 Plan of Conservation and Development and address the issue of outdoor lighting and the 2/23/07 memo to the Zoning Commission from Mrs. Roberts, which voiced the unanimous support of the Planning Commission for the above referenced proposed revisions to the Regulations. He then read the 1/8/07 staff comments from Mr. McGuinness. Mr. Owen explained these comments pointed out aspects of the proposed regulations, which would be difficult to enforce, and said in response, he had included these as non binding recommendations. He said the Commission aimed for a useable document; not one that would be unenforceable. Mr. Owen also addressed holiday lighting exceptions and the illumination of American flags. He explained the Commission proposed to add the requirement that the type and location of lighting fixtures be included on both the sketch plans and site plans submitted with zoning and Special Permit applications.

At this point Mr. Averill conducted a brief lighting demonstration that showed how bright unshielded light fixtures result in glare rather than improved visibility. Mr. Owen noted high powered lights seldom accomplish safety or security and more often create a visual nuisance and increased night time illumination and sky glow. He noted, too, that bright glaring security lights create shadows for criminals and make it difficult for the police to monitor properties.

Shielded light sources were briefly discussed. It was noted these types of fixtures produce less glare. The lights along the Town Hall walks were noted as examples of poor lighting because the bulbs are not shielded, the fixtures are mounted at eye level, and circles of darkness are cast below each lamp in the area that should be illuminated.

Mr. Owen explained the proposed regulations would help to stem the spilling over of decorative residential lighting from one property to another and that because outdoor residential lighting is affecting adjoining properties, it has become a zoning issue. The outdoor decorative lighting of a Findley Road property was cited as an example of excessive landscape lighting that lights up the Marbledale sky, blocks out the stars, produces glow, and can be seen from all over Town.

Mrs. Waterhouse complained about the orange lighting at the Montessori School on Rt. 202. She said the neighbors in this residential neighborhood had tried to impress upon the school that the lighting was intrusive, but although some corrections had been made, there was still too much lighting there. Mr. Owen noted this lighting was grandfathered and would not be affected by the proposed regulations. He said he hoped the new regulations would be the first step in building public awareness about lighting issues. He suggested that perhaps the Washington Environmental Council could approach the schools about voluntarily reducing the amount of light emitted from their campuses. Mrs. Waterhouse stressed that the orange colored lighting was "awful." Mr. Owen explained that even in areas such as parking lots that must be illuminated, there are ways to install lighting to reduce glare and impacts to adjoining properties. These include lower poles, lower wattage, redirecting the light, and shielding light sources. He added that he hoped the Town would adopt an ordinance that would give it the authority to correct existing outdoor lighting situations that result in safety problems and nuisances. He noted in the past the Commission had contacted CL&P to improve its lighting on the poles along Rt. 202 in Marbledale and said it could send a blanket request that CL&P do the same throughout the entire Town.

Mr. Owen stated outdoor residential lighting regulations were a first step and commercial lighting would be addressed next. He said safety, security, and liability issues in the commercial districts would require additional consideration by the Commission.

Mr. Buonaiuto asked why the first round of revisions was limited to residential districts when municipal uses and parking lot lighting are

some of the biggest offenders. Mr. Owen pointed out that the schools in Town are all in residential districts and the commercial districts would be addressed next. He again stated he hoped the Town would adopt an ordinance governing lighting as a third step.

Mrs. Buonaiuto said she works for a company that manufactures residential lighting and asked if the Commission would recommend appropriate bulbs. Mr. Averill said it was not so much the light source as the lack of shielding, which results in problems. Mr. Ajello recommended a frosted bulb if the bulb was completely visible and that the wattage of the bulb be decreased. Mrs. Hill noted the proposed revisions include a chart of appropriate and inappropriate fixtures. Mr. Owen said it was not the Commission's intention to come after reproduction lighting, but to improve blinding and unnecessary fixtures and to address those that illuminate beyond boundary lines. He noted, too, that the proposal included the rewriting of Section 16.3.4 to require that lighting for signs be installed on top of the sign and directed downward and toward the surface of the sign.

Mr. Papsin asked if the proposed regulations would provide any relief for the residential properties bordering commercial districts. Mr. Owen said commercial lighting would be addressed next. Mr. Papsin said the orange glow from Marbledale businesses was a nuisance on the neighboring residential properties. It was noted the CL&P light near Dowler's Garage on Rt. 202 is aimed toward Mygatt Road. Mr. Owen again said the Commission would attempt to deal with the CL&P lighting along the roads. Mr. Papsin asked if those who already have offending lights up would be grandfathered. Mr. Owen said they were, but that with the adoption of the proposed outdoor residential lighting regulations, there would be a basis for property owners to discuss lighting problems with their neighbors. He said the Zoning Commission and Planning Commission would need to persuade the Board of Selectmen to draft a Town lighting ordinance, because if such an ordinance were adopted, existing lighting could be effectively dealt with.

Mr. Owen stressed the proposed regulations were only the beginning of the whole process to address problem lighting and to educate and make the public aware of the lighting issue.

Because Mr. Owen's revised draft had been available at Town Hall and on the Town web site for public review for only a short time, it was decided to continue the hearing.

MOTION: To continue the public hearing to consider revisions to the Zoning Regulations to address outdoor residential lighting to Monday, March 26, 2007. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

At 8:47 Mr. Owen continued the hearing to March 26, 2007.

Revision of the Zoning Regulations/Section 2.3.2/Prohibition of Outdoor Wood and Other Fuel Burning Furnaces

Mr. Owen called the public hearing to order at 8:47 p.m.. Mrs. Friedman read the legal notice published in **Voices** on 2/14 and 2/21/07. Mr. Owen read the list of additional documents in the file and noted the articles for and against outdoor wood and other fuel burning furnaces had been posted on the Town web site. He noted the email he had received from the Commission's attorney was also on the web site. He read the 2/26/07 letter to the Commission from Mr. and Mrs. Averill against the proposed prohibition and the undated memo from Mr. McGuinness, NWCCOG, regarding outdoor wood burning furnace regulations in other Ct. towns. Mr. Owen noted the state statutes, which govern these furnaces; when there is a house within 500 feet, the furnace must have a chimney that extends higher than the roof of the

neighboring dwelling and that no material other than non chemically treated wood may be burned in them. State fines for violations are up to \$90 per day. He said Hebron had banned the furnaces because that town did not think 55 ft. tall smoke stacks were compatible with residential neighborhoods and the furnaces were a significant source of air pollution. A furnace manufacturer subsequently appealed the ban and the suit is pending.

Mr. Owen noted the Commission's attorney advised him that the state statutes did not specify that the outdoor furnaces must be permitted, only that if permitted they must meet the state standards. Therefore, he thought the Commission could ban them. Mr. Owen said the Commission would also support a town ordinance to prohibit them.

Mr. Buonaiuto noted he uses an outdoor wood burning furnace and said he was familiar with the manufacturers' specifications and the state statutes. He thought the outdoor furnaces were beneficial because they conserved the consumption of oil, which is a non renewable energy source. He said the furnaces were better operated outdoors so the homeowner did not have to deal with creosote build up and other fire hazards. He noted there were no final test results for emissions, which vary according to the manufacturer, but said the emissions could be regulated by the height of the smoke stack. He thought it would be discriminatory if the Commission did not also ban indoor wood burning furnaces. Mr. Owen said the Commission's concern was with the outdoor furnaces because their smoke is generally lower to the ground and has more of an effect on neighboring properties. Mr. Ajello stated the DEP fact sheet specified that boiler smoke contains more particulates than that from other furnaces. He feared improper use of outdoor wood burning furnaces would further increase the particulates. Mr. Owen agreed and said, while these furnaces are not now much of a problem, when oil prices rise and many more are in use, there will be a need to protect neighbors from their misuse. Mr. Buonaiuto thought the industry would regulate this problem, probably by requiring catalytic converters. Mrs. Buonaiuto noted the emission testing was still evolving and said there was no way at this time to know whether boiler smoke was more or less polluting than smoke from indoor woodstoves.

Mr. Owen suggested instead of a prohibition the Commission might want to consider adopting the state statutes and requiring Special Permits for outdoor wood burning furnaces. Mr. Ajello was concerned about whether an outdoor wood furnace could handle the state smoke stack height requirement. It was noted that permitting the use by Special Permit, would allow the outdoor furnaces on larger lots in uncongested areas like the farms the Averills were concerned about in their letter that had been read earlier. Mr. Ross noted in certain areas even a high smoke stack could not limit the smoke on adjoining properties due to congestion and topography.

Mr. Sommerset thought this was a non issue because not many of the people who could afford to move to Washington would want outdoor wood fired furnaces. He did not think they should be banned, however, since they might help young families and seniors to keep heating costs down.

Mr. Ross asked for the definition of wood burning furnace. Mr. Owen read the state definition and noted this would be used in the Washington Zoning Regulations if the revision was adopted.

The Commissioners decided to continue the public hearing to March 26th to allow additional time to review all of the information available.

MOTION: To continue the public hearing to consider the revision of the Zoning Regulations: proposed Section 2.3.2 to prohibit outdoor wood and other fuel burning furnaces to March 26, 2007. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

At 9:23 p.m. Mr. Owen continued the hearing to March 26th.

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

REGULAR MEETING

Mr. Owen called the meeting to order at 9:24 p.m. and seated Members Averill, Friedman, and Owen and Alternates Abella and Shapiro.

Consideration of the Minutes

The 1/22/07 Public Hearing - Regular Meeting minutes were accepted as corrected.

Page 12: 27th line: Proposed Section 13.20.B should be ...no less than 10 consecutive hours....

Page 13: 2nd line: Should read, ...asking him to resign or attend meetings....

Page 13: 6th line: R should be Republican Town Committee.

MOTION: To accept the 1/22/07 Public Hearing-Regular Meeting minutes as corrected. By Mr. Shapiro, seconded by Mrs. Friedman, and passed 5-0.

Pending Applications

2 Wheaton, LLC/2 Wheaton Road/Special Permit: Sections 9.4.1.f and 9.5.3 for Professional Offices and Relaxation of Minimum Setback

MOTION: To approve the Special Permit application: Sections 9.4.1.f and 9.5.3 submitted by 2 Wheaton, LLC. for professional offices, renovations including raising the roof and installing a handicapped ramp for the office building and relaxation of the setback requirements at 2 Wheaton Road. By Mrs. Friedman, seconded by Mr. Abella, and passed 5-0.

Sachs/104 Kielwasser Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

MOTION: To approve the Special Permit application: Section 13.11.3 submitted by Mr. Sachs for a detached accessory apartment at 104 Kielwasser Road. By Mr. Shapiro, seconded by Mrs. Friedman, and passed 5-0.

Other Business

Revision of the Washington Zoning Regulations: It was noted the public hearings for outdoor residential lighting regulations and the prohibition of outdoor wood and other fuel burning furnaces were continued to March 26, 2007.

Revision of the Zoning Regulations/Section 13.20: Eating and Drinking Establishments in All Commercial Districts: The public hearing to

consider the adoption of this section is scheduled for 7:30 p.m. on March 26, 2007 in the Land Use Meeting Room. Mr. Owen suggested that the Commission should not make the requirements so limiting that it would be impossible to conduct a profitable business.

Verizon Cell Tower Application: Mr. Owen noted the entire Verizon report would soon be on the Town web site. He said he would be unable to attend the Special Informational Meeting scheduled for 7:30 p.m. on March 5, 2007 in the Main Hall of Bryan Memorial Town Hall, but thought it would be appropriate for the Selectmen to chair the meeting as there were no zoning issues.

Revision of the Zoning Regulations: Deletion of Section 13.19: Telecommunication Antennae, Facilities, and Antenna Towers Including Personal Wireless Service Facilities and Towers: Mr. Owen proposed to delete the entire section since the state siting council supersedes local zoning. He stated the Town, not the Zoning Commission, may express a preference for a tower location and for a stealth (pine tree) a pole tower. Mr. Ajello noted the proposed site on the Underwood property will be very visible in comparison to the Waldron site. He noted, however, that the Conservation Commission preferred the Underwood site because it was further from residences should these facilities pose health problems. Mr. Owen will consult with Atty. Zizka regarding whether provisions should be retained to govern telecommunications facilities located in existing buildings, towers, steeples, silos, etc.

Communications

Rural Roadscape Zone - 12/6/06 Draft: The commissioners will take one more month to review the proposal and will discuss it at the next meeting. Related to this matter, Mr. Owen said he had received correspondence from Mr. Sears regarding the preservation of stone walls along the roads in Town. Mr. Owen felt this would be more appropriately addressed by a town ordinance.

Enforcement

Moore/25 Litchfield Turnpike/Shop and Storage Use in Residential District: Mr. Ajello reported there had been no progress with this matter. It was noted there was a possibility the Commission would fine Mr. Moore under the zoning fine ordinance.

There being no further business, Mr. Owen adjourned the meeting at 9:42 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator