

February 28, 2011

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

Alternates Present: Andy Shapiro, Harry Wyant

Absent: A.J. Dubois

Staff Present: Janet Hill, Shelley White

Others Present: Mr. Collum, Mr. & Mrs. Boyer, Mr. Solley, Ms. Coakley, Ms. Rowe, Mr. McDonough, Mr. & Mrs. Frank, Ms. Ebner-Martin, Mr. Ebner, Residents

Mr. Owen called the meeting to order at 7:31 p.m.

PUBLIC HEARINGS

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

Revision of the Zoning Regulations/Section 4.4.19 and 21.1.69: Addition of Youth Camp as a Use Permitted by Special Permit in the R-1 District and Definition of Youth Camp: (Continuation)

Mr. Owen read the list of documents that were filed since the Public Hearing held on January 24, 2011 for this application. He then read the Planning Commission's new resolution made at the February 1, 2011 Planning Commission Meeting (on file in the Land Use Office) stating that they did not approve this revision(s). Mr. Owen read a letter from the Conservation Commission dated February 14, 2011 supporting the Planning Commission's position (on file in the Land Use Office). Mr. Owen stated that Town Counsel did not favor the Planning Commission's suggestion because he feels that "it is a classic form of Spot Zoning." Mr. Owen read Atty. Zizka's response that stated, "The Zoning Regulations should not be changed to address the needs of a singular property owner" and that he thought it would be "more appropriate to create a narrow definition of Youth Camp and allow such a use by Special Permit." Mr. Owen stated that the Zoning Commission could define Youth Camp and permit it by Special Permit, consider adopting a broader change in the Zoning Regulations regarding nonconforming uses (like Atty. Zizka's Town of Coventry example), or discontinue the revision process for this section. Mr. Owen requested any comments from the public or the Commissioners.

Mr. Shapiro asked Mr. Owen for a copy of the regulation Atty. Zizka created for the Town of Coventry. Mr. Owen read the regulation. Mr. Owen stated that a regulation like this would make it possible for any existing nonconforming use to apply for a Special Permit to expand. There was a brief discussion regarding the existing camp in Town. Mr. Owen stated that he feels that one advantage of creating a definition and regulating something directly is that it would be clear as to what is conforming and what is nonconforming. The Commission discussed the advantages and disadvantages of creating a broader regulation.

Ms. Boyer stated that she is disturbed by the Zoning Commission's practice of proposing changes to the existing Zoning Regulations in "the entire R-1 District to accommodate two commercial requests." She stated that it is her opinion that this is worse than 'Spot Zoning' and that the requests erode the rural character of the Town. Ms. Boyer stated that she felt that creating a regulation similar to the one Atty. Zizka created for the Town of Coventry was a good idea. Mr. Owen stated that the application for an Inn was submitted at the time when Inns were a permitted use in the Town of Washington and the regulations were not changed to accommodate the applicant. He stated that the Zoning

Commission followed Town Counsel's advice throughout the process and that the Zoning Regulations were changed after the application was denied. Mr. Owen stated that the Zoning Commission does not have an application for a camp and the Zoning Commission has not changed its regulations in order to accommodate a camp. He stated that the Zoning Commission should consider revisions or additions to the Zoning Regulations when someone comes to the Commission with a recommendation for change.

Mr. Abella stated that he felt Atty. Zizka's example regulation from the Town of Coventry would work as long as limitations were included. Mr. Owen stated that the Washington Zoning Commission could put in different numbers that could be broader or narrower than the numbers in the Coventry regulation. Mr. Reich stated that there would not be a definition. Mr. Owen stated that a definition would not be needed because it would be for an existing nonconforming use. Mr. Reich stated that he would like to look at this further.

Mr. Averill stated that he was trying to think of any loopholes in adopting a regulation similar to the Coventry regulation but he feels that it could work. He stated that he also likes what the Planning Commission recommended even though it is considered 'Spot Zoning' it would solve the problem. Mr. Averill stated that he takes the opinions of both the Planning Commission and the Conservation Commission into consideration because they reflect the opinion of the public. He stated that he was wondering how many other commercial operations exist in the R-1 District. Mr. Owen stated that if a broader regulation was created to include nonconforming uses that the Zoning Commission would not be 'pre-granting' expansions to nonconforming uses.

Mr. Fitzherbert stated that he feels that the Planning Commission and the Conservation Commission represent the feelings of their commission members. He stated that he respects their opinion but he does not agree with them all the time. Mr. Averill stated that he meant that he feels that those commissions represent a large group of people in Town. Mr. Fitzherbert stated that he does not want the Zoning Commission to lock in to one point of view and that he sees the Planning Commission's and the Conservation Commission's view but he would also be in favor of the broader regulation addressing existing nonconforming.

Mr. Shapiro stated that he feels creating a regulation similar to the Town of Coventry seems to be most sensible and he is in favor of exploring this approach.

Mr. Owen stated that the broader regulation approach would cover the Golf Courses and those regulations could be taken off the books. He stated that he felt that a Youth Camp fits very well into the POCD, but he understands the Planning Commission and Conservation Commission's points of view.

Ms. Hill stated that she felt some residents might be concerned with the first proposed revision that would allow camps throughout the R-1 District because people that already live here may not want the possibility of a camp moving in next door to them.

There were no more questions or comments.

Motion:
to close the Public Hearing to consider the Revision of the Zoning Regulations/Section 4.4.19 and 21.1.69: Addition of Youth Camp as a Use Permitted by Special Permit in the R-1 District and Definition of Youth Camp,
by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Revision of the Zoning Regulations/New Section 2.4 Re: Public Hearing Submissions:

Mr. Owen read the legal notice published in Voices on February 16 and February 23, 2011 and list of contents in the file. Mr. Owen stated that Town Counsel recommend that this language be added to the Zoning Regulations and it was added to the Inland Wetlands Regulations a couple of years ago. Mr. Owen read the proposed Section 2.4 Public Hearing Submissions language. He stated that this proposed revision would make it more difficult for an applicant or people objecting to an application to make last minute revisions that would require continuation of the public hearing. Mr. Owen read Mr. McGuinness's of the Northwestern Connecticut Council of Governments comments dated 1/20/11 (on file in the Land Use Office). Mr. Owen read portions of the letter dated February 24, 2011 from Atty. Zizka that addresses Mr. McGuinness's concerns (on file in the Land Use Office). Mr. Shapiro stated that he thinks this revision is a good idea. Mr. Fitzherbert stated that he did not see a down side to this. Mr. Averill stated that he was in favor of this revision. Mr. Shapiro stated if the hearing is continued that this language seems to limit all other people wanting to present evidence to having to present that on or before the date on which the public hearing is commenced. He suggested that the language should state "All other persons wishing to present documentary evidence in the proceeding shall file evidence on or before the date of the hearing or any reconvening thereof." The Commission briefly discussed this request and their options on how to proceed.

There were no more comments or questions.

Motion:

to close the Public Hearing to consider the Revision of the Zoning Regulations/New Section 2.4 Re: Public Hearing Submissions, by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Rowe-McDonough/38 Kielwasser Road/Special Permit: Section 13.14 Bed and Breakfast Establishment:

Mr. Owen read the legal notice published in Voices on February 16 and February 23, 2011 and list of contents in the file. Mr. McDonough and Ms. Rowe were present to present this application. Mr. McDonough discussed the floor plan. Ms. Hill stated that the applicants have met all the requirements. There were no more questions or comments.

Motion:

to close the Public Hearing to consider the application for Rowe-McDonough/38 Kielwasser Road/Special Permit: 13.14/Bed and Breakfast Establishment, by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote.

Dobson - Ruscoe-Sedito/217 Litchfield Turnpike/Special Permit: Section 10.4.1/Office and Sign:

Mr. Owen read the legal notice published in Voices on February 16 and February 23, 2011 and list of contents in the file. Ms. Hill informed the Commission that the application was incomplete. No one was present to represent this applicant.

Motion:

to continue the Public Hearing on March 28th at Bryan Memorial Town Hall to consider the application for Dobson/Ruscoe-Sedito/217 Litchfield Turnpike/Special Permit: Section 10.4.1/Office and Sign, by Mr. Owen, seconded by Mr. Fitzherbert, passed by 5-0 vote.

REGULAR MEETING

Consideration of the Minutes

The minutes of the January 24, 2011 Zoning Commission Meeting were considered.

Corrections:

Page 3:

Under Rowe-McDonough/38 Kielwasser Road/Special Permit: Section 13.14/Bed and Breakfast Establishment: 2nd sentence should read: Ms. Hill stated that the applicant needs to submit a floor plan and that she...

Page 4:

4th Paragraph: 5th sentence should read: He stated that the telecommunications company does not have to apply to the Zoning Commission because all decisions regarding cell towers are made by the Connecticut Siting Council.

11th sentence should read: He stated that Federal law states that municipalities cannot impede the spread of national telecommunications.

Motion:

to accept the Zoning Meeting Minutes of January 24, 2011, as amended,
by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote

Pending Application(s)

Rowe-McDonough/38 Kielwasser Road/Special Permit: Section 13.14/Bed and Breakfast Establishment:

The Commission considered the application. There were no more questions or comments from the Commission.

Motion:

to approve the application from Rowe-McDonough for a Special Permit: 13.14/Bed and Breakfast at 38 Kielwasser Road,
by Mr. Owen, seconded by Mr. Reich, passed by 5-0 vote.

New Application(s)

Collum/70 Bee Brook Road/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment & Collum/36Calhoun Street/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment:

Mr. Collum was present to represent these applications. He explained the location of each of the houses. Ms. Hill stated that Mr. Collum received approval from the Health Department.

Motion:

to schedule Public Hearings on March 28th 2011 at Bryan Memorial Town Hall to consider two applications for Collum/70 Bee Brook

Road/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment & 36 Calhoun Street/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment, by Mr. Owen, seconded by Mr. Reich, passed by 5-0 vote.

Other Business Request for Revision of Zoning Regulations from Housing Commission/Section 13.13.4/Delete Minimum Apartment Size Under Housing in the Business Districts:

Mr. Owen read a letter from the Housing Commission Chair, Wayne Hileman, dated February 14, 2011 (on file in the Land Use Office) requesting that Section 13.13.4 be deleted. Mr. Owen read section 13.13.4 of the Zoning Regulations.

Motion:

to schedule a Public Hearing on April 25, 2011 at Bryan Memorial Town Hall to consider the Revision of Zoning Regulation /Section 13.13.4/Delete Minimum Apartment Size Under Housing in the Business Districts, by Mr. Owen, seconded by Mr. Abella, passed by 5-0 vote.

Request for Revision of Special Permit Issued to Myfield, LLC. For Affordable Housing at 7 Mygatt Road:

Mr. Owen stated that the proposal is to change the configuration of the housing units on the property. Ms. Hill stated that they have obtained approval from the Health Department and the Inland Wetlands Commission. Mr. Gitterman stated that this proposal is a downsizing of most of the buildings and is less invasive.

Motion:

to schedule a Public Hearing on March 28, 2011 at Bryan Memorial Town Hall to consider the Revision of Special Permit issued to Myfield, LLC for Affordable Housing at 7 Mygatt Road, by Mr. Owen, seconded by Mr. Reich, passed by 5-0 vote.

Revision of the Zoning Regulations/Sections 4.4.19 and 21.1.69/Youth Camp:

Mr. Owen suggested that the Zoning Commission would drop consideration of the current proposed revisions for sections 4.4.19 and 21.1.69 and instead consider new language similar to the Coventry example to allow expansion of a nonconforming use by Special Permit. This will be discussed at the next Zoning Meeting on March 28.

Revision of the Zoning Regulations/New Section 2.4 Re: Public Hearing Submissions:

Mr. Fitherbert stated that he feels that this is an improvement. There were no more comments or questions.

Motion:

to approve the Revision of the Zoning Regulations/New Section 2.4 Re: Public Hearing Submissions, by Mr. Fitzherbert, seconded by Mr. Averill, Passed by 5-0 vote.

Privilege of the Floor Ms. Coakley was present to represent the 17 Warren Road neighborhood committee. She thanked Mr. Fitzherbert and read a statement from the neighbors of 17 Warren Road opposing the 17 Warren Road Site and the alternative sites that were proposed on January 29. (Statement on file in the Land Use Office) Mr. Cruse, abutting neighbor to 31 East Shore Road read a deed for

Enforcement

The ZEO report dated February 28, 2011 was considered.

Communications

Mr. Owen read an email from Ms. Devlin, dated February 28, 2011, thanking Mr. Fitzherbert for his participation at the January 29, 2011 informational meeting with AT&T. The Commission and Ms. Coakley discussed the January 29th meeting. The Commission made some suggestion on how Ms. Coakley and the neighborhood committee could proceed.

Mr. Cruse read a deed from the 31 East Shore Road property of which he is an abutting neighbor. He stated that the property owner currently has an application before the ZBA requesting a garage for the property and he opposes this application and he is asking the Zoning Commission for some direction. Ms. Hill stated that the Land Use Office and Zoning Commission are required to enforce the Zoning Regulations and enforcing the deed is a civil matter. The Commission suggested that Mr. Cruse speak to an attorney.

Adjournment

Motion: to adjourn at 9:05 pm. by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk,