

March 24, 2003

MEMBERS PRESENT: Mr. Fitzherbert, Mrs. Friedman, Mr. Martin, Mr. Owen

ALTERNATES PRESENT: Mr. Abella, Mr. Brinton

MEMBER ABSENT: Ms. Page

ALTERNATE ABSENT: Mr. Shapiro

STAFF PRESENT: Mrs. Hill, Mrs. Luckey, Mr. Solley

ALSO PRESENT: Mr. Sears, Mr. Talbot, Mrs. Avery, Mr. and Mrs. Frenkle, Mrs. O'Rourke, Mr. Anderson, Atty. Fairbairn, Atty. Leary, Mr. and Mrs. Murgio, Mr. Shannon, Mr. Cannavaro, Mrs. Werner, Mr. O'Donnell, Ms. Habib, Mrs. Tracy, Residents, Press

PUBLIC HEARINGS

Washington Community Housing Trust/16 Church Street/Request for Modifications of Special Permit Conditions of Approval and Site Plan under Chapter 126a, Section 8-30g(h) of the CGS

Mr. Martin called the public hearing to order at 7:32 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Abella for Ms. Page. Mrs. Friedman read the legal notice published in **Voices** on March 12 and 19, 2003.

Mr. Martin briefly reviewed the documents in the file, noting a site plan by Mr. Talbot revised to 2/3/06 had been submitted. He said this had been reviewed by the Inland Wetlands Commission, which had determined it had no jurisdiction. Mr. Talbot confirmed the Board of Selectmen had approved the driveway application for the project.

Mr. Sears, President of the Housing Trust, explained the Trust was requesting minor revisions to conditions #5B, #5C, and #13 of the original conditions of approval for the Special Permit for affordable housing units. (Per Mr. Talbot's 2/13/03 letter to Mrs. Hill, the changes proposed were as follows: #5B: Hinckley Road access to be used to access 8 parking spaces, by emergency vehicles, and for trash pick up and the gate would be installed between the upper 8 and lower 15 parking spaces. #5C: All parallel and perpendicular parking spaces to be removed from Church Street and Hinckley Road and included these spaces in a new layout within the perimeter of the site. #13: The northwest building would be reconfigured to eliminate the old gym section in its entirety and one apartment and an addition built on the south side per the 2/6/03 site plan.)

Ms. Manning, traffic consultant for the WCHT, submitted a report dated 3/19/03, which addressed existing site conditions, Zoning's conditions of approval, and the 2/6/02 revised site plan. She thought the stop sign required by the Commission at the driveway exit onto Church Street was not necessary. The Commission said it was necessary for safety reasons because it would slow down the traffic, but agreed a smaller sized stop sign would be OK as it would be within the project property. Ms. Manning said the parking plan with eight spaces off Hinckley Road and no parallel or perpendicular parking on either Church Street or Hinckley Road was a superior plan to the one originally submitted. The Commissioners viewed the model of the site and Mr. Talbot pointed out the 8 proposed spaces; 1 handicapped, 2 for Unit #1, 1 each for Units #3 and #4, 1 for the manager's office, and 2 visitors spaces. Ms. Manning noted the gate would block through traffic. Mr. Talbot stated according to the motion of approval parking spaces could remain along Church Street and Hinckley Road, but the

WCHT followed recommendations from Lenard Engineering and proposed to eliminate them to improve safety. In exchange it was requesting limited access from Hinckley Road. He noted that although the number of units had been decreased to 11, the original number of parking spaces, 31, had been retained. Mr. Fitzherbert asked if the parking spaces would be designated and Mr. Talbot said they would.

Mr. Talbot explained the other modifications proposed. The old gym would be removed and the remaining flat roof section of the building would have a gable roof built for a more residential appearance. A 1 bedroom unit would be added to the south side of the building. The total number of units would remain at 11. The total number of bedrooms would remain at 22. Mr. Martin said this improved the appearance of the structure and increased the setback between the northwest corner of the building and the intersection as the Commission had requested.

There was a brief discussion regarding the placement of stop signs at the Church Street/Hinckley Road intersection. Ms. Manning agreed the three way stop sign would enhance safety, but felt that one of the signs may be difficult to place. Mr. Martin noted this should be taken up with the Board of Selectmen as the Commission had previously recommended.

Mr. Sears noted all the modifications being requested were due to safety concerns. Ms. Manning summarized she found the proposed parking plan to be superior to the original, removal of the gym would improve sight lines at the intersection, the installation of a three way stop sign would improve safety, and signs should be installed in the area for a 15 mph speed limit and to prohibit parking on Church Street between the entrances to the circular driveway.

Mrs. Friedman voiced her concern about the parking spaces on the circular driveway and asked that they be assigned to visitors, but Ms. Manning warned that visitor spaces are usually used more than assigned residents' spaces."

Limited access from Hinckley Road was discussed. Atty. Fairbairn, speaking for the WCHT, said the requirement that all traffic use the lower driveway created a safety hazard within the complex that the Hinckley Road access would offset. Mr. Talbot said limited use of the upper access would lessen the impact of headlights and noise from through traffic on the Shannon and Cannavaro properties. He also said he hoped to eliminate the middle section of the driveway except for use as a fire lane.

Mr. Martin referred to Mr. Talbot's 2/13/03 letter, which requested the modifications noting it said they were crucial to the project. He asked the WCHT to explain. Atty. Fairbairn stated the Trust had a budget for the construction of the affordable units and the Zoning Commission's conditions, without these modifications, made the project no longer affordable. He said it was not financially possible to remove only a section of the gym as the Commission had required. He said the conditions of approval had a substantial adverse impact on the viability of the project so that it could not be accomplished within the budget.

Mr. Anderson submitted a letter dated 3/23/03 to the Commission, which voiced support for the proposed modifications of #5C and #13, but not for #5B, limited use of the Hinckley Road access.

Mr. Shannon thought the revised site plan was a better design than the original proposal, but agreed with Mr. Anderson that the relocation of the gate and limited use of the Hinckley Road access would be dangerous for the neighborhood children. When Mr. Fitzherbert pointed out one of the reasons for use of this access was to protect his property from noise and headlight glare, Mr. Shannon said he would prefer to ensure the safety of his children and the other children who would be playing near their homes and at the nearby ball field.

Mrs. O'Rourke agreed with Mr. Anderson and Mr. Shannon that the modification to #5B should not be granted because it would endanger the neighborhood children who play in Hinckley Road.

Mr. Brinton asked if the placement of the gate affected the financial viability of the project. Atty. Fairbairn said it did not, but was "what works best." Mr. Brinton suggested speed bumps be installed at the Hinckley Road exit to slow down traffic.

Mr. Martin said the 2/6/03 site plan was far superior in terms of architecture and the elimination of on street parking, noting the question remaining was whether to allow limited use of the Hinckley Road access. Mr. Talbot thought there should be public access near the eight upper parking spaces and that those assigned to the upper spaces should not have to drive through the entire complex to reach them. He said limited use of this access would also reduce the impact on the complex's green area. Atty. Fairbairn stated the Zoning Commission had an obligation to ensure the safety of those living in the complex as well as Hinckley Road residents. Ms. Manning thought there would be less congestion on Hinckley Road if those who thought they could enter the complex from Hinckley Road could drive right in rather than having to turn around in the driveway. She also thought that some of the vehicles that tried to enter from Hinckley Road would end up parking along the street. She suggested the upper access be approved for a limited six month period and evaluated after that time. Mr. Fitzherbert said the Trust would have 100% control within the complex so could ensure traffic safety within, but would not be able to do so on the Town roads. He therefore supported the original condition of approval that the Hinckley Road access be used for emergency access only with a gate installed between the road and the parking area. He said the safety of the area children should be the Commission's top priority. Mr. Martin noted this issue (#5B) was not tied to conditions #5C and #13 and so the Commission could decide to deny this request without adversely impacting the project. Atty. Fairbairn agreed this was so.

Mr. Talbot and Atty. Fairbairn asked that if the Commission was going to put conditions on the request for modifications, it do so during the public hearing to allow the Trust an opportunity to respond to any concerns raised. For example, Mr. Talbot noted the position of the garbage bin and driveway layout would have to be changed if limited access from Hinckley Road were denied. Mr. Martin thought this was the kind of detail that could be worked out between the Trust and the ZEO.

Mr. Martin proposed a modification to condition of approval #8 concerning the sign for the project be added to state notwithstanding this condition, emergency service requirements shall be complied with. It was the consensus this modification should be added.

MOTION: To close the public hearing to consider Washington Community Housing Trust/16 Church Street/Request for Modifications of Special Permit Conditions of Approval and Site Plan Under Chapter 126a, Section 8-30g(h) of the Ct. General Statutes. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Mr. Abella was seated for Ms. Page instead of Mr. Brinton.

Mr. Martin closed the public hearing at 9:02 p.m.

Brown-Long View Landing, Inc./96 Romford Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

Mr. Martin reconvened the public hearing at 9:03 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Brinton

for Ms. Page. He noted the applicant was not present. He advised the Commission the hearing had been continued twice before and could not be continued again. The information missing at the last meeting had not been submitted and Mrs. Hill had left telephone messages for Dr. Brown, who had not yet responded. It was the consensus the application should be denied because it is incomplete.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Dr. Brown-Long View Landing for a detached accessory apartment at 96 Romford Road. By Mrs. Friedman, seconded by Mr. Fitzherbert, and passed 5-0.

Mr. Martin closed the public hearing at 9:03 p.m.

Rumsey Hall School/184 Romford Road/Special Permit: Section 4.4.10/Faculty Housing

Mr. Martin reconvened the public hearing at 9:04 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Brinton for Ms. Page. It was noted the legal notice had been read at the last meeting. Ms. Habib, Business Manager, represented the applicant.

Mrs. Hill reported the application was complete and had been approved by the Health Department. She said she had inspected the site and had found Inland Wetlands approval was not required and that the required certified mailings had been sent.

Ms. Habib presented a small scale copy of the school's master plan to show the location of the proposed faculty housing. Although several houses were shown, Mrs. Hill noted the application was for one dwelling only. She stated there were no issues concerning lot coverage or density.

The Members commented they appreciated seeing the master plan for the school and thought the fire department and highway department would also be interested in reviewing it.

There were no other questions or comments.

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.10 submitted by Rumsey Hall School for faculty housing at 184 Romford Road. By Mr. Owen, seconded by Mr. Brinton, and passed 5-0.

Mr. Martin closed the public hearing at 9:10 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, Ct.

REGULAR MEETING

Mr. Martin called the meeting to order at 9:10 p.m. and seated Members Fitzherbert, Friedman, Martin, and Owen and Alternate Abella for Ms. Page for Washington Housing Trust business and Alternate Brinton for the rest of the meeting.

Consideration of the Minutes

Mrs. Hill noted the 2/24/03 minutes should be corrected to state the Main Hall, not the Land Use Meeting Room was the location of that meeting.

MOTION: To accept the 2/20/03 Special Meeting minutes as written and the 2/24/03 Regular Meeting minutes as corrected. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Pending Applications

Brown-Long View Landing/96 Romford Road/Special Permit: Section 13.11.3/Detached Accessory Apartment

MOTION: To deny the Special Permit application: Section 13.11.3 submitted by Dr. Brown - Long View Landing for a detached accessory apartment at 96 Romford Road because the application is incomplete. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Rumsey Hall School/184 Romford Road/Special Permit: Section 4.4.10/Faculty Housing

MOTION: To approve the Special Permit application: Section 4.4.10 submitted by Rumsey Hall School for faculty housing at 184 Romford Road. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Other Business

Washington Community Housing Trust/16 Church Street/Request for Modifications of Special Permit Conditions of Approval and Site Plan Under Chapter 126a, Section 8-30g(h) of the CGS

Mr. Martin stated the Commission had agreed during the hearing the proposed modifications to the architecture of the existing school building and changes to the parking layout including elimination of all on street parking were improvements that were appreciated. The remaining issue to be decided, he said, was whether the request for limited access from Hinckley Road and relocation of the gate would be approved. Mr. Owen and Mr. Fitzherbert supported the neighbors who had spoken against these modifications. Mr. Fitzherbert stressed that the influx of new neighbors in the established neighborhood could be a problem, said he saw no need for access from Hinckley Road, and thought safety measures could best be enforced by the complex manager within the site. Mrs. Friedman expressed her concern about Ms. Manning's suggestion that cars would turn around in the Hinckley Road access, which would cause unintended safety problems. Mr. Owen thought if this was found to be the case, the neighbors could come to the Commission to request a change. Mr. Abella and Mr. Brinton thought this was not a financial issue and that safety could better be controlled from within the complex. Mr. Martin stated the WCHT had generated good will by what it had and had not requested for modifications. He appreciated its willingness to work with the Zoning Commission and noted the modifications resulted in a plan that was substantially better than the original.

MOTION: To approve the following modifications requested by the Washington Community Housing Trust to the conditions of approval and site plan for its affordable housing units at 16 Church Street: the change of the architectural structure of the building at the northwest corner of the site dealing with units #1, #2, and #3 and addition to the rear of that same building and the new parking layout, all per Mr. Talbot's 2/6/03 revised site plan. Also, the Commission adds a statement to condition of approval #8 that states, Notwithstanding this

condition, emergency service requirements shall be complied with. The request for any access other than emergency vehicle access from Hinckley Road is denied. The request to move the location of the gate at the Hinckley Road entrance is also denied. The Zoning Enforcement Officer is authorized to work out any further details with the WCHT as long as they are consistent with the 2/6/03 site plan and the original or modified conditions of approval. By Mr. Martin, seconded by Mr. Owen, and passed 5-0.

Mr. Abella was seated for Ms. Page instead of Mr. Brinton.

At 9:25 p.m. the Commission took a five minute recess. Mr. Martin reconvened the meeting at 9:30 p.m.

AT&T Wireless PCS/Petition to Amend the Zoning Regulations/ Sections 13.19.8.o and 13.19.8.q

Mr. Martin noted the public hearing to consider the petition had been closed on February 24th. He noted the petition was to amend the Washington Zoning Regulations, but that federal laws also had to be considered and so the Commission had asked for guidance from Town Counsel.

Mr. Martin stated he was opposed to granting the petition for several reasons. They are briefly stated here but are stated in their entirety in the following motion. 1) Washington residents had expressed widespread support for the current Regulations, the requirements of this section had been purposely included, the current Regulations already effectively balance the Town's need for seamless wireless service with impact to taxpayers, and the petitioner had not demonstrated the proposed amendments would improve that balance or that the proposed amendments were in compliance with the comprehensive zoning plan and with the Plan of Conservation and Development. 2) The petitioner failed to prove it would be unable to provide seamless coverage without the proposed amendments. 3) The Commission understands it may consider factors other than visual impact in cases where more than one equally viable location for a proposed facility is available. 4) The Commission agreed with the Planning Commission's 1/23/03 memo. 5) Use of an existing structure does not necessarily mitigate visual impact due to limited co-location opportunities, which may not necessarily limit the proliferation of wireless facilities that would have visual impacts throughout Town.

Mr. Fitzherbert stated the Commission had received a lot of input in an extensive public hearing, but he was not convinced the Regulations should be amended. Mr. Martin noted 125 residents had attended the first session of the hearing.

Mr. Brinton noted remarks from the public had been unanimously against the granting of the petition and thought sites other than church steeples were available.

Mr. Owen noted Washington's position regarding the use of church steeples may not be typical of other towns, but was consistent for Washington since this section of the Regulations had been adopted. He also thought there were many other viable locations that could be considered.

Mrs. Friedman said she was not convinced the only viable option was to amend the Regulations. She thought all others should be exhausted first. Mr. Martin noted the record of the public hearing shows there are other alternatives available to AT&T. Mrs. Friedman also did not think approval of the petition would necessarily decrease the number of towers that would eventually be required to provide coverage in

Town.

Mr. Martin stated the Town has the right to prioritize impacts within the Town.

MOTION: That the petition by AT&T Wireless PCS, LLC d/b/a AT&T Wireless to amend Sections 13.19.8.o and 13.19.8.q of the Washington Zoning Regulations be denied for the following reasons:

1. The public hearing evidences widespread support by Washington residents for the existing Zoning Regulations. These Regulations were adopted after a public hearing in which careful review of the consistency of the telecommunications regulations with Washington's comprehensive plan of zoning and its Plan of Conservation and Development and of the potential impacts to the Town of possible future telecommunications facilities took place. The record also shows that the setback provisions addressed by the petition were purposefully included in Washington's telecommunications regulations. The Commission finds that the existing regulations satisfactorily balance the need to provide for seamless telecommunications coverage with the need to protect Washington residents and taxpayers from undue and unnecessary impact to the public health, safety, and welfare of the community. The Commission further finds that the petitioner has not demonstrated that the proposed amendments would provide a better or fairer balance between these potentially competing goals. The Commission further finds that the petitioner failed to show whether or how the proposed amendments comport with the comprehensive plan of zoning or the Plan of Conservation and Development.
2. The Commission finds that the petitioner has failed to demonstrate that it would be unable to provide seamless telecommunications coverage for its PCS network without the proposed amendments. The record reflects that the site currently under consideration is only one potentially feasible alternative, that other potential sites exist or may exist that would not require an amendment to the Regulations, and that the petitioner has not fully explored such potential alternatives. The Commission concludes that the amendment of its existing telecommunications regulations should not be taken as a matter of mere convenience to a particular applicant or for a particular site, without a demonstration that the existing regulations are more generally impractical, unworkable, or inadequate to address the matters to which they pertain. The Commission finds that no such demonstration has been made to date with regard to the presently proposed amendments.
3. The petitioner has suggested that the visual impact of a telecommunications facility is the only impact that may or should be of significance to the Commission. Although the Commission understands that its ability to consider the possible health and environmental impacts of telecommunications facilities is presently limited by federal or state laws or regulations, it also understands that it is not completely prohibited from considering such factors, particularly when more than one equally viable location for a proposed facility is potentially available.
4. The Commission has considered, and agrees with, the comments of the Washington Planning Commission, as set forth in its memo dated January 23, 2003.
5. The Commission finds that, while the proposed use of an existing structure could mitigate visual impacts for a specific telecommunications facility, it does not necessarily limit proliferation of wireless facilities that have visual impacts in Washington. The record shows that co-location would probably not be feasible in the church steeple the petitioner is presently considering for its facilities. Consequently, other carriers who may require a site in New Preston may need to erect a tower regardless of whether the petitioner's

equipment is installed in the existing structure. Therefore, the Commission finds that the use of an existing structure by one applicant would not necessarily eliminate the need for a tower at a nearby location, and that the amendment would not necessarily provide any visual benefit to the Town in the long run.

By Mr. Martin, seconded by Mr. Fitzherbert, and passed 5-0.

Revision of the Regulations/Sections 17.4, 17.4.a, 17.4.b, 18.1.4, and 18.2.1

Mr. Martin noted since the last meeting he had received input from the Zoning Board of Appeals that it was not comfortable with the proposed language for Section 17.4.b, which would grant it the authority to approve Special Exception applications. At ZBA's 3/20 meeting several Members had expressed concern about the lack of specificity of the criteria to be used in granting Special Exceptions. Mr. Martin said he would write to Mr. White, ZBA Chairman, that the Zoning Commission will hold off on considering the addition of Section 17.4.b until the ZBA submits specific recommendations to the Zoning Commission. It was noted, however, there was no reason not to proceed with a public hearing to consider revisions to Section 17.4 and 17.4.a, which would clarify the Town's historical position that no increase in height or volume of a non conforming structure is permitted. Notices had already been mailed to the surrounding councils of government and it was noted the hearing was scheduled for 7:30 p.m. on April 28th.

Zoning Fees: Mr. Martin said it had been decided at the last meeting of the Land Use Chairmen that the Town should comply with state statutes and set the land use fees by town ordinance rather than by each commission's regulations. Therefore, the Board of Selectmen was creating such an ordinance and had asked each Commission to consider its existing fee schedule and to report what changes, if any, it would like stated in the proposed ordinance. Sheets showing the current zoning fees and a comparison of these fees with those in other NW Ct. towns were reviewed. In general, it was thought most of the current zoning fees; \$25 for a zoning permit, \$150 for a Special Permit, and \$50 for the renewal of a Special Permit were in line with other towns and that any increase might make residents less inclined to apply for a permit. The Commission agreed to raise the fee for petitions to amend the Zoning Regulations and Zoning map to \$250 due to arduous process involved in considering these petitions.

Privilege of the Floor

Mr. Anderson appreciated the fact the Commission did not raise its permit fees. He said as a contractor he knows that from the applicant's viewpoint the fees required are astronomical and keep rising so much so that a \$400 deck can cost as much as \$1000.

Mr. Anderson also thanked the Commission for its vote not allow limited use of the Hinckley Road access to 16 Church Street. Mr. Martin again stated the approved modifications had been good for the project and had showed how much the WCHT was willing to work with the community.

Mr. Fitzherbert noted the number of Commission meetings that last late into the night and asked if the Commissioners would consider an earlier start time. Mr. Martin said 7:30 p.m. had been set to give individuals who work time to get to the meetings. Mr. Fitzherbert suggested 6:00 p.m. Mr. Owen and Mr. Abella said that was not convenient for them. A second suggestion to move the start time to 7:00 p.m. was tabled.

Communications

Mr. Martin reported the ZBA had unanimously upheld the ZEO's denial of the Hermann application for a second story addition within the front yard setback and then granted a variance for the same project.

Mr. Martin noted he had received a request from the Conservation Commission for a volunteer from the Zoning Commission to serve on a new data management committee. Due to the Zoning Commission's workload, there were no volunteers. Mrs. Hill will inform the Conservation Commission.

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

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, ZEO