

March 24, 2008

Public Hearings – Regular Meeting

March 24, 2008

7:30 p.m. Land Use Meeting Room

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: Ms. Habib, Mr. Farnen, Mr. Smith, Atty. Coploff, Mr. Tittmann, Mr. Papsin, Mr. Hileman, Mr. Lyon, Mr. I. Shapiro, Mr./Mrs. Markert, Ms. Canning, Mr. McGowan, Mr. Bennett, Atty. Kelly, Mr. Barnum, Press

PUBLIC HEARINGS

Rumsey Hall School/200 Romford Road/Special Permit: Section 4.4.10/Construct Second Dormitory, Extend Driveway

Mr. Owen called the public hearing to order at 7:32 p.m. and seated Members Abella, Averill, Friedman, and Owen and Alternate Shapiro for Mr. Fitzherbert.

Mrs. Friedman read the legal notice that was published in Voices on 3/12 and 3/19/08. Mr. Owen read the list of documents in the file and the 3/24/08 ZEO Report.

Mr. Farnen, Headmaster, presented the map, “Illustrated Master Plan,” by SLAM Collaborative, dated 5/15/2000. He pointed out where the dormitory and driveway were proposed and said that this was the only area available because the use of the campus on the other side of the road was restricted by the river and the regulated area along it. He noted the school’s enrollment would not increase; that the new dorm would consolidate the campus by bringing in students currently housed off site. A rendering of the proposed building was shown and Ms. Habib noted it was identical to the first dorm previously approved by the Commission.

Mr. Smith, surveyor, reviewed the map, “Site Grading and Utilities Plan,” by Smith & Company, dated 2/12/08 and pointed out the proposed driveway loop and the walkways that would link the dorms. He noted the proposed coverage was 13.7% as had been approved by the ZBA.

He then briefly discussed the stormwater management system. One portion of the runoff would flow to a recharge system, some of it would be directed to catch basins and then into the ground, and the remainder would drain down to Romford Road. Smith & Co.'s "Landscaping and Lighting Plan," dated 2/12/08 was also reviewed. Five "Dark Sky" wall mounts were proposed for the building and literature on both the wall mounted lighting and pole lighting was submitted. Mr. Smith stated that the proposed landscaping was minimal; Norway spruce, dogwood, and American elms were proposed.

Mr. Averill asked if the outdoor lighting would be on all night.

Ms. Habib responded that the new lights would be turned off at 11:00 p.m. as is currently done with the other campus lighting and said the school would look into installing motion sensor lighting.

Mrs. Friedman asked what the timing was for the construction of the proposed faculty house.

Mr. Farmen stated that the faculty house had been withdrawn from the ZBA variance application and was not included in this application.

Mr. Ajello noted he had not received a report from the Fire Dept., but advised the Commission that an appropriate location for a second hydrant would be in the vicinity of catch basins #20 and #21. He noted there is an 8" water line in this area and that a hardened road shoulder near the hydrant for use by emergency vehicles should also be required.

Mr. Ajello advised the applicant that the variance granted would have to be filed on the Land Records before the Special Permit would be effective.

Mr. Owen reviewed the conditions of the hockey rink/first dormitory approval and possible conditions of approval for this permit were discussed.

There were no questions or comments from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.10 submitted by Rumsey Hall School for a second dormitory and extension of the driveway at 200 Romford Road. By Mr. Shapiro, seconded by Mr. Averill, and passed 5-0.

At 7:52 p.m. Mr. Owen closed the hearing.

Laffont/128 Calhoun Street/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Owen opened the public hearing at 7:53 p.m. Mrs. Friedman read the legal notice published in Voices on 3/12 and 3/19/08.

Mr. Owen read the list of documents in the file and the 3/24/08 ZEO Report.

Mr. Ajello noted that 5 certified mailing receipts and 5 green certified mailing receipt cards had also been submitted.

Mr. Tittmann, contractor, presented the plans, "Proposed Septic System Plan," by Mr. Neff, dated 1/8/08 and "Garage Floor Plan and Elevations," by Tittmann Design and Consulting, dated 11/21/07. He said the dwelling unit proposed in the existing structure would be for a caretaker.

Mr. Shapiro asked how large the primary dwelling was.

Mr. Tittmann said it had seven bedrooms.

Mr. Ajello said there were no outstanding issues.

Mr. Ira Shapiro, adjoining property owner, asked if the apartment could be rented, why a Special Permit was required, and if the owner could put in another bedroom.

Mrs. Friedman responded that yes, it could be rented out, a Special Permit was required by the Zoning Regulations, and that a second bedroom could be added as long as the apartment still met the size limitations. She explained the apartment must be clearly subordinate to the primary dwelling and could not exceed 1200 sq. ft. She noted that once approved, the Commission had no say in how the apartment was used. She also noted that the property owner was required to reside on the premises so there would be a link with the tenant if the apartment was rented.

Mr. Owen stated that the primary dwelling and the apartment could not both be rented out and that there was a letter in the file from Mr. Laffont stating that he would reside on the premises for the duration of the permit.

Mr. Tittmann asked if the Special Permit would be void if the property was sold.

Mrs. Friedman said it would be void.

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

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. and Mrs. Laffont for a detached accessory apartment at 128 Calhoun Street. By Mr. Owen, seconded by Mr. Averill, and passed 5-0.

Mr. Owen closed the public hearing at 8:02 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. Owen called the Regular Meeting to order at 8:04 p.m.

Consideration of the Minutes

The 2/25/08 Public Hearing – Regular Meeting minutes were accepted as corrected. On page 8, 4th line down, it should state “pervious”, not “impervious driveways.”

MOTION: To accept the 2/25/08 Public Hearing – Regular Meeting minutes as revised. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Pending Applications

Rumsey Hall School/200 Romford Road/Special Permit: Section 4.4.10/Construct Second Dormitory, Extend Driveway:

Mr. Abella thought the proposed driveway loop was an improvement. Mr. Owen pointed out that by concentrating student activities, school generated traffic would be decreased. He also noted the proposed dorms with attached faculty units were examples of cluster housing that was advantageous for both the school and the Town. Mr. Ajello explained that the proposed lot coverage was 13.7% because only the separate property on one side of the road was counted. The conditions of approval were discussed in detail.

MOTION: To approve the Special Permit application: Section 4.4.10 submitted by Rumsey Hall School to construct a second dormitory and extend the driveway at 200 Romford Road per the map, “Proposed Dormitory No. 2,” 9 sheets, by Smith & Co., dated 2/12/08 subject to the following conditions:

1. approval does not include the “proposed future faculty house” shown on certain other maps,
2. approval is specific to the lot coverage variance #ZBA 0801 granted on 3/20/08 and shall not be in effect until that variance has been filed on the Town Land Records, and
3. one additional fire hydrant and hardened road shoulder for emergency use shall be installed in the vicinity of the new driveway intersection designated by catch basins #20 and #21.

By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Laffont/128 Calhoun Street/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. Laffont for a detached accessory apartment at 128 Calhoun Street. By Mrs. Friedman, seconded by Mr. Shapiro, and passed 5-0.

New Applications

Region #12 School District/159 South Street/Special Permit: Section 4.4.10/Reconstruct Track:

Mr. Harlow, landscape architect, presented an enlarged aerial photo of the site and the map, "Existing Track Overlay Plan," by Milone and MacBroom, dated 3/19/08. He noted that the new track would include a perimeter walkway and that the ZBA had granted the required lot coverage variance.

MOTION: To schedule a Special Meeting and Public Hearing at 7:30 p.m. on Monday, April 14, 2008 to consider the Special Permit application: Section 4.4.10 submitted by Region #12 School District to reconstruct the track at 159 South Street. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Vincent/181 New Milford Turnpike/Special Permit: Section 9.4.1.i/ Small Scale Business Establishment:

Mr. Ajello noted the application was not yet complete, but asked that a public hearing be scheduled for April 28th.

Mr. Owen read the 3/24/08 ZEO Report. It was noted the property is located at the corner of Mygatt Road and Rt. 202 and the map, "Existing Conditions Map," by Arthur H. Howland and Assoc., dated 3/24/08 was reviewed. It was noted the existing house would be maintained as a residence, but the existing barn would be torn down and rebuilt for commercial use. "Proposed New Elevations," by Mr. Bowman, dated 2/2008 was also reviewed.

MOTION: To conduct a public hearing on April 28, 2008 to consider the Special Permit application: Section 9.4.1.i submitted by Mr. and Mrs. Vincent for a small scale business establishment at 181 New Milford Turnpike. By Mr. Owen, seconded by Mr. Abella, passed 5-0.

Town of Washington/59 East Shore Road/Special Permit: Section 6.4.4/Construct Compressor Building:

Mr. Owen read the 3/24/08 ZEO Report.

Mr. Lyon, First Selectman, noted the ZBA had granted a variance for only the compressor building because the plans were not yet complete for the renovation of the beach house and the reconfiguration of the parking area. It was noted then that the Zoning Commission would consider only the compressor building at this time. The plans, "Compressor Building for the Lake Waramaug Task Force," by Mr. Lasar, dated 3/20/08 were reviewed. Mr. Lyon noted the foundation will be below the frost line and will have a common wall with the retaining wall shown on the plan. The ground floor will be raised above flood level. He stated that the building will be located between the realigned ramp and the existing beach house, which will eventually be rebuilt and decreased in size and that an A-2 survey showing this location would be done. He noted, too, that the service lines were already in place.

Mr. McGowan, Director of the Lake Waramaug Task Force, said he understood that the Commission wanted to review the compressor building in the context of the entire Phase II plan, but that due to the need to get the compressor operating by June 1, this was not possible.

MOTION: To schedule a public hearing on April 14, 2008 to consider the Special Permit application: Section 6.4.4 to construct a compressor building at 59 East Shore Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Other Business

Revision of the Zoning Regulations

1. Section 13.11.1/Accessory Apartments:

The public hearing has been scheduled for May 19, 2008. Mr. Owen noted that a letter dated 3/21/08 from Mr. Hileman had been received and that it would be read at the public hearing.

2. Section 13.9.1/Tourist Home or Inn:

Mr. Owen reviewed the proposed revisions that had been decided upon at the last meeting. The main revision was clarification that inns and tourist homes shall have frontage on state highways. Other minor revisions include clarification of the setback requirements for structures other than fences: 100 feet from any street and 50 feet from any lot line. This public hearing has also been scheduled for May.

3. Section 16.5.1/Signs:

The proposed revision would require signs in non residential districts to be placed at least 10 feet from side boundary lines, but would not require a setback from the front boundary line. The public hearing will be conducted on April 28th.

4. Section 12.14/Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment:

Mr. Owen proposed revised language after consulting an acoustic engineer. He noted the reason for the revision is to provide the ZBA with a standard it can apply when considering Special Exception applications to vary the location requirements for noise generating equipment. He noted applicants are now asked to demonstrate to the satisfaction of the ZBA that the proposed location would decrease the noise impact on neighbors, but said that the Zoning Commission had not included guidelines on how this should be proven. Mr. Owen read the proposal.

Mrs. Friedman said that the acoustical consultant referred to should be a professional certified in his field.

Mr. Ajello did not see the need for the owners of large properties to provide proof there would be less noise for neighbors since often their

generators were so far away from adjoining properties that there was no noise off site. He recommended the applicant be required to prove there would be less or equal noise beyond the boundary line.

Mr. Owen noted, however, that factors such as topography and vegetation affect the noise level, not just distance.

Mrs. Friedman noted that the reason for the wording of the current regulation was that it required property owners to keep their noise generating equipment as close as possible to the structure served, which served as an incentive to them to keep it operating as quietly as possible. She did not think this should be changed.

Mr. Hileman, audio engineer, agreed that how sound travels is more complicated than just distance; it varies depending on other factors such as wind, topography, and vegetation. He thought that measuring fractions of a decibel was pointless as that difference could not be detected by the human ear and warned that screening devices can sometimes act as resonators, making the noise worse. He also pointed out that how offensive a noise is depends partly on the normal amount of noise in the vicinity.

Mr. Ajello said that sometimes the Special Exception requests are to put generators in accessory buildings that are more than 25 feet from the structure served and that so far he had not had any complaints about these.

Mr. Owen said he had not yet discussed this proposal with the ZBA, but it was the consensus of the commissioners that he should do so before the discussion continues.

5. Petition to Amend the Zoning Regulations/Section 21.1.37/ Definition of Lot Coverage:

On behalf of Kelly and Trevenen, LLC. and Kent Greenhouse, Atty. Kelly submitted a revised proposal dated 3/24/08. He said that based on last month's discussion he had determined that more thorough revisions were needed in addition to the change in the definition. He proposed to revise Sections 11.5.1 and 11.5.2 and to add a new Section 11.5.3. Section 11.5.3 would create a new category of lot coverage; pervious traveled surfaces, for which the maximum lot coverage could not exceed 10%. Also, in addition to revising the definition of "Lot Coverage," he proposed a new definition for "Pervious Traveled Surface." Atty. Kelly said the proposed revisions were needed because the current method of calculating coverage puts interior lots that often need long driveways at a disadvantage. Atty. Kelly was asked to be prepared to discuss the following issues at the public hearing: how the increase in coverage permitted on each lot could change the character of the Town by allowing inappropriately larger houses on small lots, how the pervious surfaces hold up after use, how the pervious surfaces should be maintained and how they function if they are not maintained, what happens when a property is sold and the new owner paves over the driveway, etc.

Mr. Ajello asked if the proposed 10% coverage allowed for pervious surfaces was flexible. He noted that many towns allow up to 25% coverage and that the proposed 10% for structures plus 10% for pervious driveways would approach that.

Mr. Owen suggested that perhaps there could be a sliding scale depending on lot size. Atty. Kelly noted the revision would not just allow additional coverage, but would also improve stormwater management, a concern discussed in the Plan of Conservation and Development.

MOTION: To schedule a public hearing on May 19, 2008 to consider the petition submitted by Atty. Kelly to amend the following sections of the Washington Zoning Regulations regarding lot coverage: 11.5.1, 11.5.2, and 21.1.37 and to create new sections 11.5.3 re: maximum lot coverage for pervious surfaces and a new definition in Section 21 for "Pervious Traveled Surfaces." By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

6. Section 16.4/Residential District Signs:

At the last meeting it had been agreed that commercial signs in residential districts should be considered.

Mr. Owen submitted draft language for Sections 16.4 -16.4.3. Mrs. Hill pointed out that the proposal would be a major change because it would permit signs for all business uses in the residential district; not just inns and bed and breakfast operations as had been discussed at the last meeting. She also suggested that a new category for institutional signs in residential districts be permitted to allow signs for churches, museums, schools, etc. Mr. Owen pointed out that this would not be easy to do because institutions would have to be defined.

Mr. Ajello suggested that non profit institutions as well as inns, bed and breakfasts, and pre existing non conforming uses be permitted signs in the residential districts.

Mr. Abella thought the proposed 8 sq. ft. sign in Section 16.4.3 was too large.

Mr. Ajello suggested a double sided 4 sq. ft. sign.

Mr. Averill asked if the signs would be allowed to advertise.

Mrs. Friedman said the regulation should allow one sign "for identification purposes only" per lot. It was noted that under the current regulations home occupations and shop and storage use by contractors may not have signs and it was generally thought that this should not be changed.

Mr. Owen said he would like to see a list of all the uses for which signs would not be permitted.

Mr. Averill asked if the signs could be lit. Mrs. Friedman and Mrs. Hill said, no, lighting in the residential districts could be a problem. Discussion of this matter will be continued at the next meeting.

7. Outdoor Commercial Lighting:

At the last meeting the Commission had agreed that outdoor lighting regulations for the commercial districts should be drafted. Work on these regulations has not yet begun.

8. Sections 11.7.2, 21.1.8, 21.1.9/Method for Calculating Average Grade:

It was noted a letter dated 3/4/08 from Mr. Owens asked for clarification on how to determine the average grade from which the building height is measured. The current regulations specify the average of the highest and lowest point is taken, but Mr. Owens argued that using the average of a continual line grade around the entire structure was a more accurate method to calculate the average grade. None of the commissioners objected to the addition of this second method as an option in both Sections 21.1.8: Average Finished Grade and 21.1.9: Average Pre Existing Grade. Mr. Ajello pointed out that a corresponding revision should be made in Section 11.7.2.3. Mr. Owen will draft the final language and send it to Mrs. Hill as soon as possible.

MOTION: To schedule a public hearing on May 19, 2008 to consider revisions sections 21.1.8, 21.1.9, and 11.7.2.3 of the Washington Zoning Regulations to clarify the method for measuring the total height of buildings. By Mr. Owen, seconded by Mr. Averill, and passed 5-0.

9. Possible New Zoning District for the Calhoun-Ives Historic District/Preliminary Discussion:

Mrs. Canning, a resident from the Calhoun-Ives Historic District, expressed her concern about the large size of both the new and added onto houses in this historic district, noted that this is inappropriate for the historic agricultural character of the area, noted there are many more potential building sites in the district, making this a pressing issue, and said she hoped to make the Zoning Commission aware of the potential threats to the character of the district. She suggested a “communal” approach to guard against inappropriate development here.

Mr. Owen noted that Mrs. Hill had contacted the Director of the NW Ct. Council of Governments for advice and input about the potential role of Zoning in this matter and that he had responded that the Historic District Commission has more authority than does Zoning to regulate the size of houses due to the way it is set up to make determinations about appropriateness. Mr. Owen noted that the Zoning Commission can conceivably get involved with the size of structures, but has less jurisdiction over what they look like.

Mrs. Canning said she thought that the Historic District Commission was becoming more aware of the problem, especially after having approved the Laffont house and having reviewed an “aggregious” proposal for 132 Calhoun Street. But she hoped that establishing Zoning regulations would put enforcement in the hands of the Town rather than under the vigilance of militant neighbors.

Mrs. Friedman noted that the Zoning Commission has always avoided size and aesthetic guidelines, even in The Green Residential District.

Mr. Shapiro explained that if Zoning created a Village District it would then be required to establish architectural design standards, but short of that it had no authority over design.

Mr. Hileman asked if there was a difference between an historic district and a Village District.

Mr. Owen explained the difference, noting that Village Districts were more likely to be established in business districts to control the appearance of the commercialization of an area. He thought it was unlikely that the Zoning Commission could create a zoning district within an historic district for the purpose of keeping out certain kinds of houses.

Mr. Ajello, Mrs. Friedman, and Mr. Owen all thought that it was up to the Historic District Commission to take stronger stands on inappropriate proposals for the historic districts and that the historic district residents should support its efforts to do so.

Atty. Kelly noted that the Historic District Commission is limited in that its jurisdiction is

- 1) what can be viewed from the public way and
- 2) does the fenestration match that section of the district.

He thought the Zoning Commission could help with specific revisions to the Regulations. For example, he cited the Surnow swimming pool, which had been installed in the front yard of this historic district property. He said the Historic District Commission had not been able to deny it because it was hidden behind a stone wall. A zoning regulation that prohibited swimming pools in the front yards in historic districts or which required them to be located behind and/or screened by the primary structure would have helped the Historic District Commission to preserve the character of the area.

Mr. Owen urged the concerned residents to ask the Historic District Commission to come up with a list of potential revisions to the Zoning Regulations that would help it to preserve the historic districts.

10. Section 11.1/Soil Table and Map:

Mr. Ajello reported that the state had changed the way it handles soil classifications and so the references in this section were outdated.

Mrs. Hill noted that Planimetrics had written this section and suggested that it be contacted to provide an update.

Privilege of the Floor

Mr. Papsin briefly discussed the problem of generators. He thought the Zoning Commission was right to require that they be placed close to the structure to be served and did not think the ZBA should vary this unless there was an extreme hardship. Most property owners, he said, do not want to look at their generators and he did not think that was reason enough to grant them permission to move them farther from the structure served.

Mr. Hileman noted that most large generators serve part time residents who don't want their pipes to freeze, that applications to allow them to be located farther from the structure served frequently tie up the ZBA, and that he thought there was no reason to ease up on this restriction.

Mr. Hileman thanked the Zoning Commission for its diligence and said he hoped it would be proactive on the issue of housing. Mr. Owen noted that after Mr. Hileman had addressed the Commission on housing he had attended WCHT, Planning Comm., and Board of Selectmen meetings and had found that they all had priorities and viewpoints that differed from that of the Housing Commission. He said he had recommended to the Board of Selectmen that it conduct a meeting with representatives from all of these groups to discuss housing. Mr.

Hileman thought a land use summit to look for consensus on this issue was a good idea.

Mr. Owen also suggested to Mr. Hileman that the Housing Commission could propose specific revisions to the Zoning Regulations.

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

Mr. Owen adjourned the meeting at 10:35 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Coordinator