

March 28, 2011

Present: David Owen, Ray Reich, Gary Fitzherbert

Absent: Lou Abella, Ralph Averill, Andy Shapiro, Harry Wyant, A.J. Dubois

Staff Present: Shelley White

Others Present: Mr. Collum, Mr. Frank, Ms. Ebner-Martin, Mr. Collum, Mr. Stichter, Mr. Charles, Mr. Fowlkes, Mr. Gitterman, Mr. Worcester, Ms. Mullen, Mr. Williams, Ms. Peterson, Ms. Mathews, Ms. Shaffner, Ms. Hatfield, Ms. Stevens, Ms. Krajnak, Ms. Demeo, Ms. Allen, Press, Residents

Mr. Owen called the meeting to order at 7:35 p.m.

PUBLIC HEARINGS

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

Continued

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

Mr. Owen read Ms. Hill's Administrative Report dated 3/25/11. There was no one present to discuss this application. A written request for an extension was not submitted. There were no further questions or comments.

Motion:
to close the Public Hearing to consider the application for Dobson (Ruscoe-Sedito)/217 Litchfield Turnpike/Special Permit 10.4.1/Office and Sign,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 3-0 vote

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

Mr. Owen read the legal notice published in Voices on March 16 and March 23, 2011 and the list of contents in the file. Mr. Collum submitted 5 return receipt green cards. Mr. Owen read Ms. Hill's Administrative Review, date 3/25/11 (on file in the Land Use Office). Ms. Hill's report states that the question of whether the building was constructed prior to 1920 is the only outstanding issue. Mr. Collum stated that the building was constructed around 1910. Mr. Owen stated that he would be willing to close the Public Hearing and act pending on construction date. Mr. Collum and the Commissioners looked at the survey map with the parking areas drawn in. There were no further questions or comments.

Motion:
to close the Public Hearing to consider the application for Collum/70 Bee Brook Road/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment,
by Mr. Owen, seconded by Mr. Fitzherbert, passed by 3-0 vote.

Collum/36 Calhoun Street/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment:

Mr. Owen read the legal notice published in Voices on March 16 and March 23, 2011, the list of contents in the file and Ms. Hill's Administrative Report dated March 25, 2011. Ms. Hill's report states that the only outstanding issue is the ZEO's confirmation that the parking indicated on the site plan is available on the property. Mr. Collum and the Commissioners looked at the "Map Prepared for Rex K. Collum," by Burnham and Gee with a revision date of 8/10/82. Mr. Stichter approached the table to look at the indicated parking areas on the map. There were no further questions or comments.

Motion:

to close the Public Hearing to consider the application for Collum/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 3-0 vote.

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

Mr. Owen read the legal notice published in Voices on March 16 and March 23, 2011.

Mr. Gitterman, Mr. Fowlkes and Mr. Worcester, Architect, were present to discuss this application. The Commission, Mr. Gitterman and Mr. Worcester looked at the Site Plan for Myfield LLC, sheet SP-1, By William W. Worcester, Architect with a revision date 10/4/10. Mr. Worcester stated that the three houses that were connected are now separated, the plan is downsized from 16 units to 13 units, the footprint of the buildings was decreased, the permeable parking areas were increased because of the change in the garages orientation and screening has been added along the road. Mr. Gitterman stated that the driveways were reconfigured for safety reasons so that the homeowner would not have to back in to the road. Mr. Worcester discussed the configuration of the plan before the current revisions were made. Mr. Owen gave a brief history of this application and how the Zoning Commissions voted. He stated that the Zoning Commission was concerned with the comparability of the affordable and market units with the original plan and asked that the comparability be discussed with these revisions. Mr. Worcester indicated the market rate and the affordable housing units on the Site Plan, which ones would include decks and noted that two affordable units would not be next to each other. The Commission looked at the house plans for Myfield LLC, sheet A-2 & A-3, By William W. Worcester, Architect, dated 10/4/10. Mr. Worcester stated that there are two different floor plans, one with the ridgeline parallel to the road with 1,740 square feet and the other with the ridgeline perpendicular to the road with 1,817 square feet. Mr. Fowlkes stated that the approved septic is installed. Ms. Mullen asked if the existing units would remain rentals. Mr. Gitterman stated that it would be sold. Ms. Mullen asked if the gully with a pipe located at the end of the road was going to remain. Mr. Gitterman stated that it was required by the Inland Wetlands Commission to put the pipe in for drainage and it would remain. She asked if the road within the complex was going to be improved. Mr. Gitterman stated that they were not planning on paving the road.

The public came to the table to look at sheet SP-1, A-2 and A-3.

Mr. Williams asked if any of the units have a shared bay garage. Mr. Owen stated that each unit has two bays in either a double garage or a stand-alone garage. Mr. Worcester confirmed this. Mr. Williams asked if there would be any provisions for guest parking. Mr. Worcester stated that there would be two spaces in front of the garage doors that could be used for guest parking and that they are trying to discourage parking along the road. Mr. Owen stated that the Zoning Regulations do not require parking space for the maximum conceivable moment and that like anywhere in Town there may be overflow parking on the street.

Ms. Peterson asked how the issue of affordable and market value units would be addressed and if both types of units would have full basements. Mr. Wooster stated that all units would have accessible basements.

Ms. Mathews asked where the septic system was located. Mr. Owen stated that the septic system is already installed and approved.

Ms. Krajnak stated that page 3 of the Affordability Plan, dated February 15, 2011 (on File in the Land Use Office) states that “at least fifteen percent of the units must be affordable for 40 years to families earning eighty percent or less of the median income for the greater Danbury area...” She asked why it was not for the Town of Washington area. Mr. Owen explained the State Law for affordable housing and stated that the State defines the median income area. Mr. Fowlkes stated that they were advised to use the Danbury area by the State Department. Ms. Krajnak referred to section II of the Affordability Plan and asked if it were true that these designated affordable units would be designated affordable forever. Mr. Fowlkes confirmed that they would be. Ms. Krajnak referred to section IV of the Affordability Plan and asked how someone with limited income would be able to afford to make capital improvements. Mr. Owen stated that the State’s purpose for affordable housing is to give people a head start and build equity. Mr. Gitterman stated that the homeowners could not increase the footprint of the property. Mr. Owen stated that when the homeowner decided to sell that they would not be able to sell by the value of the property, but rather sell it at 80% of the area median income. Ms. Krajnak asked what would happen if the median goes down. Mr. Owen stated that they would lose money. Ms. Krajnak asked if there would be a limitation to the number of individuals residing in a unit. Mr. Gitterman stated that there would not be a limitation. Ms. Krajnak asked who is creating the rules and regulations and the overall declaration. Mr. Fowlkes stated that they have been drafted but not made public. Ms. Krajnak asked if all unit owners must follow the same rules and regulations. Mr. Fowlkes confirmed that all owners in the complex would follow the same rules and regulations. Ms. Krajnak asked if the same affordable homeowners would pay the same association dues and /or assessments as the other owners. Mr. Fowlkes stated that they would be required to pay the affordable or ½ the market rate.

Ms. Peterson asked how much, as a taxpayer of Washington, of the affordable property is she going to be responsible for if the owners do not pay for the assessment or common charges as well as if the units do not sell and become rentals? Mr. Owen stated that the Zoning Commission does not have authority if the homeownership turns to rentals. Ms. Peterson stated that Bee Brook and Quarry Ridge sustain themselves.

Mr. Williams asked why the median for buying was based on the Danbury area and the median for selling was the Washington area. Mr. Fowlkes stated that he believed it was both Danbury and it was possibly a typographical error.

Ms. Shaffner asked about changes to the floor plan. Mr. Worcester stated that if a prospective owner would like to see the floor plan rearranged that it could be done as long as it stays within the footprint, location and does not add a bedroom. Mr. Owen stated that anything that is modified other than what has been approved must come back to the Zoning Commission. Mr. Gitterman stated that there is an enormous amount of flexibility with the interior floor plan.

Ms. Hatfield asked where the Zoning Commission sits on the sewage/waste of the complex. Mr. Owen stated that they are concerned with it, however this complex has an approved septic system that is already in place. There was a brief discussion regarding the septic system.

Ms. Stevens asked if there was a landscape plan. Mr. Worcester stated that there is a screen of plantings that would be along the road and

these plantings are indicated on the Site Plan. Ms. Stevens asked when the screen would be planted. Mr. Worcester stated when the first house is constructed. Mr. Gitterman stated that the trees would be similar to the trees that have already been planted between Myfield and Quarry Ridge. Ms. Krajnak asked if the trees that are already planted be continued around the bend to screen the buildings that are underneath the culvert. Mr. Worcester stated that there aren't any indicated on the plan. Mr. Gitterman stated that he was not sure it would be allowed.

Ms. Hatfield asked how much the units would be sold for. Mr. Owen stated that this was not a Zoning issue.

Ms. Demeo asked if there are any restrictions of what a property owner could do with their basement space. Mr. Owen stated that there are not but that it could add a bedroom because the number of bedrooms is limited by the size of the septic.

Ms. Krajnak asked if the median for selling was a typographical error would it be corrected and does the Zoning Commission have to wait until it is corrected before they could make a decision. Mr. Owen stated that the Zoning Commission could move forward and vote on this without the possible correction.

Ms. Allen asked if the houses would be constructed all at once. Mr. Gitterman stated that two units would be built at a time. Mr. Owen stated that proportion of affordable units to market units could never go below what is required by the State.

Mr. Owen stated that the Town of Washington already has some successful affordable housing. Ms. Allen stated that those are rentals. There was a discussion regarding how a person would be eligible for affordable housing. Mr. Fitzherbert stated that it is the intent of the State law is for each municipality to have a certain percentage of affordable housing and the Town of Washington has a low percentage.

Mr. Worcester stated that Myfield LLC is requesting approval for revisions to the existing Special Permit to reduce the number of units from 16 to 13 individual units, reduce square footage of eight houses , and reduce height of units.

Mr. Fitzherbert asked if there were any questions that are relevant to these changes.

Ms. Allen stated that she disagrees with Mr. Fitzherbert that the Town of Washington is low on affordable housing but perhaps that the percentage is not as high as the State would like. Mr. Fitzherbert stated that he was trying to explain that the Town has to show over time that the Town is working towards the State's percentage. There was a brief discussion about how many more affordable units would be needed to reach the State's percentage. Ms. Johnson asked what happened with the affordable housing at Wykeham Rise. Mr. Owen stated that an application was never submitted.

Ms. Krajnak asked if there were any plans to build affordable housing in the Depot. Mr. Owen stated that no one has come forward with any plans.

Mr. Reich stated that he is a neighbor of Myfield and he feels that Myfield LLC is comprised of people that have a vested interest, as they are all residents of the Town.

Ms. Stevens asked if the affordable units could be rented if the owner defaults. Mr. Owen stated that they must remain in compliance with the State requirements.

Ms. Krajnak asked if the assets indicated in the Affordability Plan were Stated requirements. Mr. Owen confirmed that they were.

Ms. McDonald asked if units would look the same. Mr. Owen stated that they would be the same but would be oriented differently on the lots.

There were no further questions or comments.

Motion:

to close the Public Hearing for Myfield LLC./7Mygatt Road, to consider the revision of Special Permit for Affordable Housing, by Mr. Owen, seconded by Mr. Fitzherbert, passed by 3-0 vote

REGULAR MEETING

Consideration of the Minutes

The minutes of the February 28, 2011 Zoning Commission Meeting were considered.

Corrections:

Page 1:

Under 1st, Public Hearing, 3rd paragraph: 1st sentence should read: Ms. Boyer stated that she is disturbed by what she called the Zoning Commission's practice...

Last sentence continued to Page2:

should read: He stated that the Zoning Commission followed Town Counsel's advice throughout the process.

Motion:

to accept the Zoning Meeting Minutes of February 28, 2011, as amended, by Mr. Fitzherbert, seconded by Mr. Reich, passed by 3-0 vote.

Pending Application(s)

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

There was no one present to speak for this incomplete application. There were no further questions or comments from the Commission.

Motion:

to deny the application for Dobson(Ruscoe-Sedito)/217 Litchfield Turnpike/Special Permit 10.4.1/Office and Sign,

by Mr. Owen, seconded by Mr. Fitzherbert, passed by 3-0 vote.

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

The Commission considered this application. They stated that they could approve it pending verification that the property owner shows documentation that the building was constructed before 1920. There were no further questions or comments.

Motion:

to approve the application for Collum/70 Bee Brook Road/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment,

by Mr. Owen, seconded by Mr. Reich, passed by 3-0 vote.

Collum/36 Calhoun Street/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment:

The Commission considered this application and satisfied that the parking has been substantiated. There were no further questions or comments.

Motion:

to approve the application for Collum/36 Calhoun Street/Special Permit: Section 13.10/Residential Conversion of Older Home/Add Additional Apartment,

by Mr. Fitzherbert, seconded by Mr. Reich, passed by 3-0 vote.

New Application(s)

Laverge/226 Bee Brook Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

No one from the public was present to discuss this application. There were no further questions or comments.

Motion:

to schedule a Public Hearing on April 25th 2011 at Bryan Memorial Town Hall to consider the application for Laverge/226 Bee Brook Road/Special Permit: Section 13.11.3/Detached Accessory Apartment,

by Mr. Owen, seconded by Mr. Reich, passed by 3-0 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:

A Public Hearing has been scheduled for April 25, 2011, 7:30 pm, at Bryan Memorial Town Hall in the Land Use Meeting Room.

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

Mr. Fitzherbert stated that he liked the reconfiguring of the houses. Mr. Reich and Mr. Owen stated that they did not have any issues with this request. There were no further questions or comments.

Motion:

to approve the Revision of Special Permit Issued to Myfield, LLC. for Affordable Housing at 7 Mygatt Road, by Mr. Reich, seconded by Mr. Fitzherbert, passed by 3-0 vote.

Ross-Dobson/24 Wilbur Road/Discussion re: Request to Revise Site Plan for Special Permit/Proposed Changes to Screening and Driveway and Installation of Patio:

The Commission agreed to discuss this at the next regular Zoning Commission Meeting on April 25, 2011.

Referral from Inland Wetland re: Shoreline Protection Policies:

Mr. Owen stated that he feels that the word cement throughout the document should be replaced with concrete and otherwise he did not have any other comments. Mr. Reich and Mr. Fitzherbert agreed with Mr. Owen. There were no further questions or comments.

Revision of the Zoning Regulations/Discussion of Expansion of Grandfathered non conforming uses by Special Permit:

Mr. Owen distributed and read a draft of proposed language for this revision. He stated that it identical to Atty. Zizka's Coventry language without the 50% limitation because he did not see the need for it. Mr. Owen stated that Commission might want to consult Atty. Zizka about revising the six sections (17.1-17.6) in the Zoning Regulations regarding nonconforming uses. He stated that the language in section 17.1 dates back to the beginning of the Washington Zoning Regulations and that it states that as soon as there is a discontinued use of any nonconforming use then this use should be eliminated. Mr. Owens stated that the Zoning Commission adopted section 17.4 Nonconforming structures around 2003 and the two sections are not "harmonious." He stated that there were other inconsistencies within the six sections. He asked the other Commissioners how they would like to proceed. Mr. Owen suggested that one possibility would be to proceed with the proposed language and another would be to talk to Town Counsel for further guidance. He stated it would be difficult to make a decision tonight without the other members of the Commission. Mr. Owen suggested that he review the proposed language with Atty. Zizka, ask him how this proposed language would work with the other six sections and then discuss this with the other Commissioners. Mr. Reich and Mr. Fitzherbert agreed with Mr. Owen's suggestion.

Privilege of the Floor

Mr. Charles stated that the median income is time sensitive. He discussed the factors considered for an affordable home. The Commission and Mr. Charles discussed who would qualify for affordable housing.

Communications

3/21/11 Letter from the Planning Commission re: Process of Revision of Zoning Regulations:

Mr. Frank stated that the letter requests that, in the spirit of cooperation, there be an open dialog between the Planning Commission and the

Zoning Commission before an issue comes to a Public Hearing. Mr. Owen stated that he feels the system is working the way it was meant to and that this would be adding another layer to the process. Mr. Frank stated that many towns have a combined Planning and Zoning Commission. Mr. Fitzherbert stated that he feels there is strength in having the two commissions separate. Mr. Frank stated that the Planning Commission feels that there should be some sort of discussion on certain issues before the statutory public hearing. There was a brief discussion regarding spot zoning.

Adjournment

Motion:

to adjourn at 9:45 pm. by Mr. Owen, seconded by Mr. Reich, passed by 3-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk