

April 23, 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. Papsin, Atty. Fisher, Mr. Boling, Ms. Dupuis, Press

Mr. Owen called the meeting to order at 7:30 p.m. and seated Members Abella, Averill, Friedman, and Owen and Alternate Shapiro for Mr. Fitzherbert.

Consideration of the Minutes

MOTION: To accept the 3/26/07 Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

New Applications

Murgio/21 New Preston Hill Road/Special Permit: Section 13.14/ Renewal of Bed and Breakfast Establishment

Mr. Owen read the 4/23/07 ZEO Report, which stated the owner lives on the premises, the permit was first granted in 2001, and there have been no complaints received since it began operating. The Special Permit had been renewed once before in 2004.

MOTION: To approve the renewal of the Special Permit: Section 13.14 issued to Mrs. Murgio to operate a bed and breakfast establishment at 21 New Preston Hill Road. By Mrs. Friedman, seconded by Mr. Abella, and passed 5-0.

John Dorr Nature Lab/220 Nettleton Hollow Road/Special Permit: Section 4.4.10/Demolish Lodge, Construct Enlarged Classroom Building, Additions to Dormitory:

Mr. Owen read the 4/23/07 ZEO Report, which noted the improvements are in anticipation of expanded programs in the future. It was noted the Inland Wetlands Commission had not yet approved the application. Mr. Ajello said he would ask the applicant to submit photos of the site for the public hearing. The hearing was scheduled for Monday, May 21, 2007 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

McTiernan/52 Calhoun Street/Special Permit: 13.11/Enlargement of Detached Accessory Apartment

Mr. Owen read the 4/23/07 ZEO Report, which noted the Health Department had not yet approved the application. A public hearing was scheduled for May 21, 2007 in the Land Use Meeting Room immediately following the John Dorr Nature Lab hearing.

Parsell/13 Top Pasture Road/Special Permit: Section 13.11/ Detached Accessory Apartment

Mr. Owen read the 4/23/07 ZEO Report. It was noted the Inland Wetlands Commission had not yet approved the application. A public hearing was scheduled for May 21, 2007 in the Land Use Meeting Room immediately following the McTiernan hearing.

Other Business

Myfield, LLC./7 Mygatt Road/Discussion Regarding Comparability: Mrs. Friedman said it had come to her attention that the two units that have been constructed are comparable on the outside, but not on the inside. She suggested the Commission schedule a site inspection to compare them. Mr. Ajello said he had made an inspection and was told these were model units to show what it was possible to order. He said there was quality construction in both, but the market rate unit had granite tile, more wood floors, better light fixtures, a larger tub, etc. Mr. Owen reviewed the interior specs that had been submitted and noted the units were supposed to be identical, although he realized that once people move in they may make interior changes. Mr. Ajello also noted there were minor differences in the partitioning; that the market rate unit had a smaller third bedroom to accommodate a larger bathroom. He said the major differences between the two units were 1) the large oval soak tub, 2) the French doors opening into the yard, and 3) the forced air furnace, which would be more easily adaptable for air conditioning in the market rate unit. Mr. Owen noted comparability was one area the Commission had some control over, and stated it was not the intent of the Zoning Commission to enable developers to use the Affordable Housing Appeals Act to build completely different units. He said they did not have to be identical, but had to be comparable. If the market rate unit were truly comparable, he said, then the developer should have no problem offering it at the affordable price. Mr. Owen asked Mr. Shapiro to discuss the comparability issue with Atty. Zizka and this matter will be discussed more fully at the next meeting.

Revision of the Zoning Regulations/Eating and Drinking Establishments in All Commercial Districts: Mrs. Friedman noted that Atty. Zizka did not support the proposed language, which had been discussed at the last meeting, to ban formula restaurants. Mr. Owen said, therefore, the Commission was moving forward with a public hearing only to consider prohibiting drive-through establishments. Mrs. Friedman said Atty. Zizka had recommended the establishment of Village District regulations to regulate restaurants. She thought this was an important issue and so the Commission should reconsider Village District regulations. She thought that the proposed ban on drive through restaurants would not be adequate and that if a fast food restaurant moved to Washington the public would ask why the Zoning Commission had not taken any preventive measures in advance. Mr. Boling explained Village District regulations would enable the Commission to consider proposals in the context of what already exists in the district. He said the administration would not be difficult. Per statute, the Commission could hire a consultant, such as an architect or Planimetrics or Robert Orr, or establish an advisory panel who would determine whether the proposal fit the district or not. Mrs. Hill circulated copies of Section 8-2j of the state statutes, which governs Village Districts. Mr. Owen asked the commissioners to review it before the next meeting. Mrs. Friedman will study this issue and report back to the Commission. Mr. Boling offered to share a draft Village District regulation he wrote eight years ago to help her with her review.

Privilege of the Floor

Atty. Fisher appeared on behalf of the property owners of the Wykeham Rise School property on Wykeham Road to discuss possible uses for that property. He said such uses would have to be in compliance with the Regulations and good for the Town. He noted that the existing buildings were not suited for residential purposes and that while the property was suited for residential use, it was not suited for a traditional subdivision. An aerial photo and topographic map were reviewed. One possibility for the property was to sell it to another educational institution. He noted another of the possibilities being considered by the owners was cluster housing with a percentage of affordable units. He asked the Commission for its thoughts regarding locating the affordable housing off site and clustering higher end houses for older adults on this property. He said he understood that currently cluster housing is not permitted under the Zoning Regulations and so an amendment would be required. It was noted an amendment would not be required for cluster housing under the Affordable Housing Appeals Act. First, Mr. Owen advised Atty. Fisher to review the Myfield, LLC. file regarding the issue of comparability. Mr. Averill noted that in addition to the requirement that the construction of the units be comparable, he thought that even if the units were identical, that due to the real estate market, units in different locations would not be comparable. Mr. Owen agreed and advised Atty. Fisher the Commission had objected to an earlier plan for Myfield with the affordable units located to one side of the property with a separate driveway. Atty. Fisher asked whether there was a sense that the Commission would amend its Regulations if it received a petition to permit cluster housing. Mr. Owen said the Commission would review whatever petition it received, but had recently decided that to allow cluster housing would result in a significant increase in population and infrastructure, but would result in greater difficulty in reaching the state goal of 10% affordable units in Town. It was also noted that the construction of cluster housing would also change the character of Town. It was the consensus that the Zoning commissioners did not want to skew development in Washington so that it would become more "Heritage Village" like. Mr. Boling agreed, but noted Washington has many residents who want to stay in Town, but want some kind of cluster higher end units. He suggested the Commission might consider a transfer of development rights where, for example, if twenty cluster units were approved, the developer would have to preserve land with twenty density units elsewhere in Town or on the same property. Atty. Fisher said he had discussed the property with Mr. Sears who had asked if it would be suitable for an assisted living facility. It was noted there was an adequate septic system recently installed, but that it would require that the existing buildings be torn down. It was also noted that convalescent homes are permitted in the R-1 District, but not assisted living facilities and that any proposal to amend the Regulations would have to take the entire R-1 District into consideration, not just this property. Mr. Owen said he would look further into the definition of convalescent home and the goals of the Plan of Conservation and Development.

Mr. Papsin, Mygatt Road, asked if there was a timetable for the completion of Myfield. He noted the constant noise from trucks and construction equipment is disturbing to the neighborhood. Mr. Ajello responded that there was no timetable, but that the bulk of the required site work would soon be completed and so the situation should improve. Mr. Papsin also noted the porches seem to be sagging in the middle. Mr. Ajello said that was a Building Department issue.

Mr. Ajello noted he had received several inquiries about wind turbines and that Section 12.5.4 is in place to govern them. Their height is limited to 70 feet, they require fencing and other safety measures, etc. However, Mr. Ajello pointed out that Section 12.1 regulates noise generating equipment and it might be difficult for property owners to prove to the ZBA that locating a windmill more than 25 feet from the principal structure it serves will result in less noise for adjoining properties. It was the consensus of the Zoning commissioners that there would not likely be many applications for windmills and that the ZBA could use its best judgement regarding whether to grant a variance in cases where property owners did not want the windmill to be located so close to their houses.

Enforcement

Moore/25 Litchfield Turnpike: Mr. Ajello reported recent progress by the Inland Wetlands Commission to resolve its enforcement issues with Mr. Moore. He listed the current zoning violations on the Moore property; none have zoning permits: 1) a building was enlarged and constructed too close to the property line, 2) a paved parking area/sports court was installed, and 3) a commercial landscaping business is operating in the R-1 zone. He noted he sent Mr. Moore a letter on 4/9/07 to inform him that enforcement proceedings would begin. Mr. Owen noted that if it became necessary to fine him, the Commission would vote to authorize Mr. Ajello to do so.

Outdoor Residential Lighting: Mr. Ajello noted the new regulations state that no light shall be directed towards the sky, but asked how the lighting of trees should be handled. Mr. Owen said the decorative lighting of trees was prohibited. It was noted the school campuses are offensive and it was hoped school officials or students working with the WEC would take it upon themselves to make improvements. Mr. Ajello said he would remind the Building Official that outdoor residential lighting now requires a zoning permit.

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

Mr. Owen adjourned the meeting at 8:50 p.m.

FILED SUBJECT TO APPROVAL Respectfully submitted,

Janet M. Hill, LU Coordinator