

## April 25, 2011

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

**Alternates Present:** Andy Shapiro, Harry Wyant, A.J. Dubois

**Staff Present:** Shelley White

**Others Present:** Mr. Hileman, Mr. Frank, Selectman Solley, Ms. Ebner-Martin,

Mr. Owen called the meeting to order at 7:30 p.m.

### PUBLIC HEARINGS

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

#### 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 the legal notice published in Voices on April 17 and April 20, 2011 and the list of contents in the file. Mr. Hileman, Housing Commission Chair, stated that when the petition for deleting minimum apartment size in Section 13.10 Conversion of an Older Home, discussions began at the Housing Commission Meetings and it was the consensus of the Housing Commission to petition for the deletion of minimum apartment size for Section 13.13 Housing in the Business Districts. Mr. Owen read the response from the Northwest CT Council of Governments, dated 3/14/11, which states, "The proposed amendment does not conflict with any plan or policy of the Northwestern CT Council of Governments." The Commission confirmed that the apartment, no matter what size, would have to abide by the Town's Building Codes. There were no further questions or comments.

#### Motion:

to close the Public Hearing to consider the application to consider the Revision of Zoning Regulations from Housing Commission/Section 13.13.4/Delete Minimum Apartment Size Under Housing in the Business Districts, by Mr. Fitzherbert, seconded by Mr. Reich, passed by 5-0 vote.

### REGULAR MEETING

#### Consideration of the Minutes

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

#### Corrections:

Page 3:

2nd paragraph: 2nd sentence should read: Mr. Owen stated that there are not but that it could not add a bedroom ...

Page 6:

Under Revision of the Zoning Regulations/Discussion of Expansion of Grandfathered Non Conforming uses by Special Permit: 1st, 2nd sentence should read: He stated that it is identical to Atty. Zizka's Coventry language without...

**Motion:**

to accept the Zoning Meeting Minutes of March 28, 2011, as amended, by Mr. Fitzherbert, seconded by Mr. Reich, passed by 5-0 vote.

**Pending Application(s)**

There were no pending applications.

**New Application(s)**

Doherty/214 Calhoun Street/Special Permit: Section 13.11.3/Detached Accessory Apartment:

The Commission scheduled a Public Hearing.

**Motion:**

to schedule a Public Hearing on May 23, 2011 at Bryan Memorial Town Hall to consider the application for Doherty /214 Calhoun Street/Special Permit: Section 13.11.3/Detached Accessory Apartment, by Mr. Owen, seconded by Mr. Reich, passed by 5-0 vote.

**Other Business**

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

A Public Hearing was rescheduled for May 23, 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.

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

Mr. Frank, Commissioner with the Planning Commission, confirmed that the Planning Commission made a motion at it's last meeting to approve this proposed revision.

**Motion:**

to approve the Revision of Zoning Regulation(s) from Housing Commission for Section 13.13.4/Delete Minimum Apartment Size Under Housing in the Business Districts, by Mr. Owen, seconded by Mr. Reich, passed by 5-0 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:

Mr. Owen read the ZEO Report dated 4-25-11 (on file in the Land Use Office) regarding this property. The Commission looked at photos that Mr. Ajello took of the existing conditions of the property and photos that the property owner submitted for documentation of the changes. Mr. Owen stated that the changes are two air-conditioning units, two propane tanks, boulder wall at north end of building, 140 sq. ft. patio and reconfiguration of driveway with no additional square feet. He stated that 4 or 5 spruce trees were removed because of existing trees and 285 sq. ft. of parking area was also removed (photos on file in the Land Use Office). There was a brief discussion regarding the office space and apartments in the building. There were no further questions or comments.

**Motion:**

to approve the proposed changes to the screening and driveway and addition of a patio to the Site Plan for the Special Permit for Ross/Dobson, 24 Wilbur Road,  
by Mr. Owen, seconded by Mr. Reich, passed by 5-0 vote.

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

Mr. Owen distributed a draft of proposed language for this revision (attached). He stated that Atty. Zizka noted, in his letter, that the major consideration is how extensive the Commission would want the potential allowance by Special Permit to be to a legal non conforming use for enlargement or extension of that non conforming use. He stated that this proposed language is identical to Atty. Zizka's Town of Coventry language without the 50% limitation. He stated that Atty. Zizka told him that there was no science to the 50% in the Coventry language. Mr. Owen stated that the size of the enlargement or extension would be addressed in the Special Permit process. Mr. Averill asked for confirmation that the Commission would not be required to approve an expansion of an existing use just because it was 50 years old or older. Mr. Owen confirmed that the Commission does not have to approve it and it must still go through the Special Permitting process. Mr. Owen stated that the proposed language allows the Zoning Commission flexibility to preserve uses that predate and were not included in the Regulations yet are still part of the community and the Commission feels should be preserved. The Commission agreed that the 50-year-old requirement fits the needs of the Town. There was a brief discussion regarding whether or not an existing industrial use could be expanded to another slightly larger but different industrial use. Mr. Frank stated that most of the regulations he has seen do impose a percentage on the size of the enlargement/expansion. He stated that it might be a good idea to find out what the existing non conforming uses are in Town. It was the consensus of the Commissioners that they did not have a problem with this proposed language and to schedule a public hearing. There were no further questions or comments.

**Motion:**

to schedule a Public Hearing on June 27, 2011 at Bryan Memorial Town Hall to consider the Revision of Zoning Regulations to include Expansion of Grandfathered Non Conforming Uses by Special Permit,  
by Mr. Reich, seconded by Mr. Abella, passed by 5-0 vote.

**Privilege of the Floor**

Mr. Frank stated that the Planning Commission's letter suggests that the Planning Commission and the Zoning Commission might find it

useful to explore some kind of arrangement to exchange dialog before an issue comes to a Public Hearing. Mr. Owen recapped the discussion of the last Zoning meeting when he expressed 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. Averill stated that he understands the Planning Commission's position and that there are times that discussion between the two commissions are necessary but he feels that there is no need to change the process. Mr. Reich and Mr. Shapiro agreed with Mr. Owen and Mr. Averill. Mr. Abella stated that there might be a special situation where it would be useful to have a member representing the Planning Commission at the Zoning Meeting. Mr. Frank stated that he feels having a member represent the Planning Commission at the Zoning Meeting and being able to offer suggestions on certain situations could be a solution. Ms. Ebner-Martin asked about the process of approving the revisions to the Zoning Regulations. There was a brief discussion regarding the process.

### **Communications**

There were no communications to discuss.

### **Zoning Enforcement**

#### Community Table/223 Litchfield Turnpike/Parking:

Mr. Owen read Mr. Ajello's ZEO report dated April 25, 2011 (on file in the Land Use Office). Selectman Solley stated that Mr. Hyde, property owner of a neighboring property on Wilbur Road, came to the Selectmen seeking relief from the overflow parking, which has been obstructing Wilbur Road. Employees of the Community Table are mainly parking on the shoulder of Wilbur Road in order to preserve space in the parking lot for patrons according to the ZEO report. Mr. Solley requested assistance from the Zoning Commission in resolving how to create additional parking. He stated that are around 10 cars that are parked on the shoulder of Wilbur Road daily. Mr. Hyde suggested a no parking sign for the area to the Selectmen. Mr. Solley and the Zoning Commissioners discussed different scenarios that could possibly resolve the issue of overflow parking for the Community Table. Mr. Shapiro suggested that the restaurant be required to take dinner reservations. There was a discussion regarding shared parking at neighboring properties. Mr. Owen stated that the Zoning Commission should look at the Special Permit granted to the Community Table and see if the site plan would allow for more parking and that the Zoning Commission would join the Selectmen in finding a solution to the overflow parking issue.

There was a brief discussion regarding Smith - 31& 35 East Shore Road.

### **Adjournment**

Motion:

to adjourn at 8:45 pm.

by Mr. Fitzherbert, seconded by Mr. Reich, passed by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL

Shelley White,  
Land Use Clerk