

## April 26, 2010

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

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

**Absent:** Gary Fitzherbert, Andy Shapiro Alt.,

**Staff Present:** Janet Hill, Shelley White

**Others Present:** Dirk Sabin, Landscape Architect, Mr. Reese Owens, Architect, Mr. Schoellkopf, Mr. Lyon, Mr. Templeton, Mr. Parker, Mr. Klauer, Ms. Federer, Mr. Dutton, Residents

Mr. Owen called the meeting to order at 7:32 pm.

### PUBLIC HEARINGS

Seated: Mr. Owen, Mr. Reich, Mr. Averill, Mr. Abella, Mr. Wyant, Alt. (for Mr. Fitzherbert)

#### Revision of the Zoning Regulations/Addition of Section 13.21 regarding Transfer of Special Permits for Eating and Drinking Establishments:

Ms. Hill read the legal notice published in Voices on April 14 and April 21, 2010. Mr. Owen read the list of documents on file for this proposed revision of the Regulations. Mr. Owen stated that the Atty. Zizka advised that Special Permits do not need to be transferred from one owner to another because the permit stays with the property. Atty. Zizka suggested an alternative approach to make sure that the property stays in compliance from one owner to another. Mr. Owen recommended that this hearing be closed and the Commission could discuss it under Other Business on the agenda.

#### Motion:

to close the Public Hearing for the Revision of the Zoning Regulations/Addition of Section 13.21 regarding Transfer of Special Permits for Eating and Drinking Establishments,  
by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Mr. Owen recused himself, as he was recently a paid speaker for the Garden Conservancy.

Mr. Averill, Secretary, was seated for Mr. Owen.

Seated: Mr. Averill, Mr. Reich, Mr. Abella, Mr. Wyant, Alt. (for Mr. Fitzherbert), Mr. Dubois, Alt. (for Mr. Owen)

#### Schoellkopf/300 Nettleton Hollow Road/ Special Permit: Section 13.17/Public Restrooms:

Ms. Hill read the legal notice published in Voices on April 14, and April 21, 2010. Mr. Averill read the list of documents on file for this application. Mr. Dirk Sabin, Landscape Architect, was present to represent Mr. Schoellkopf. Mr. Sabin presented a photograph of the

homestead, circa 1900, indicating that there was a building in this location at that time. He discussed the Property/Boundary Survey, by T. Michael Alex, prepared for Hollister House Garden, The Garden Conservancy, 300 Nettleton Hollow Road, dated March 2009 and the elevation/floor plans, titled Recreated Outbuilding Barn, at Hollister House, dated March 18, 2010. There were no questions or comments from the Commissioners or the public. Ms. Hill stated that she reviewed the application and that it is complete.

Motion:

to close the Public Hearing for Schoellkopf/300 Nettleton Hollow Road/ Special Permit: Section 13.17/Public Restrooms, by Mr. Reich, seconded by Mr. Wyant, by 5-0 vote

Mr. Owen returns.

## **REGULAR MEETING**

Mr. Owen called the regular meeting to order at 7:45 p.m.

Seated: Mr. Owen, Mr. Reich, Mr. Averill, Mr. Abella, Mr. Wyant, Alt. (for Mr. Fitzherbert)

### **Consideration of the Minutes**

The March 22, 2010 Zoning Commission Regular Meeting Minutes were considered:

Motion:

to accept the Zoning Meeting Minutes of March 22, 2010, as submitted, by Mr. Owen, seconded by Mr. Reich, by 5-0 vote.

Mr. Owen recused himself.

Mr. Averill, Secretary, was seated for Mr. Owen.

Seated: Mr. Averill, Mr. Reich, Mr. Abella, Mr. Wyant, Alt. (for Mr. Fitzherbert), Mr. Dubois, Alt. (for Mr. Owen)

### **Pending Application(s)**

Schoellkopf/300 Nettleton Hollow Road/ Special Permit: Section 13.17/Public Restrooms:

There were no additional comments from the Commission. Motion:

to approve Special Permit Application submitted by Schoellkopf/300 Nettleton Hollow Road/ Special Permit: Section 13.17/Public Restrooms, by Mr. Reich, seconded by Mr. Dubois, by 5-0 vote.

Mr. Owen returns.

Seated: Mr. Owen, Mr. Reich, Mr. Averill, Mr. Abella, Mr. Wyant, Alt. (for Mr. Fitzherbert)

### **New Application(s)**

#### Spring Hill Farms, LLC./69 Whittlesey Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Mr. Reese Owens, Architect was present to represent the applicants. He stated that the property owners would like to add a sleeping area and kitchen space to the existing attic space that is a farm office. Ms. Hill and Mr. Owens looked at the Site Plan, Floor Plan and Elevations titled, Spring Hill Farm Residence, Sheet Z101, by Halper Owens Architects, dated 3/31/10. Ms. Hill noted that the proposed apartment is less than 1200 sq. ft. and that it has a separate entrance from the main house. There were no further questions or comments.

#### **Motion:**

to schedule a Public Hearing on May 24, 2010 to consider the application for Spring Hill Farms, LLC/69 Whittlesey Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment,  
by Mr. Owen, seconded by Mr. Abella, by 5-0 vote.

#### Lyon-Gray/82 Old Litchfield Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Ms. Hill noted that this application needs approval from the Health Department. Mr. John Lyon was present. He stated that the engineer did the perc tests for the septic system today. Mr. Lyon stated that the structure is a basic garage with an apartment over the top. Ms. Hill stated that the proposed apartment meets the requirements for height, lot coverage and setbacks. There were no further questions or comments.

#### **Motion:**

to schedule a Public Hearing on May 24, 2010 to consider the application for Lyons-Gray/82 Old Litchfield Road/Special Permit: Section 13.11.3 Detached Accessory Apartment,  
by Mr. Owen, seconded by Mr. Wyant, by 5-0 vote.

### **Other Business**

#### Possible Revision of The Zoning Regulations/Section 12.14 Re: Special Exceptions for Generators and Other Noise Generating Equipment:

The Zoning Board of Appeals has not submitted a response as of the time of this meeting.

#### Revision of Zoning Regulations/Proposed Section 13.21/Acknowledgment of Special Permit for Eating and Drinking Establishments at the time of transfer of the property or new lessee:

Mr. Owen recommended that this discussion be merged with the following discussion:

#### Possible Revision of the Zoning Regulations/Section 13.9/To Allow Inns on Town Roads – Definition of “Inn”:

Mr. Owen asked the Commission to refer to his document distributed to them titled Inn-Draft concepts for discussion only, April 26, 2010 (attached). He stated he and Ms Hill are working on additional minor technical revisions that are not included in this draft and that they will

be included in the final draft. Mr. Owen discussed the revised/proposed definitions for Bed and Breakfast Establishment, Fitness Facility and Inn and noted that the definition for Boarding House would be eliminated. He stated that Health Department approval is mentioned in the Zoning Regulations and Atty. Zizka recommended replacement language for Section 2.3.6. Mr. Owen stated that with the current regulations a property owner cannot apply for a Zoning or Special Permit unless they have septic approval from the State or other officials such as the Connecticut Department of Health or the Connecticut Department of Environmental Protection and this proposed replacement language makes it possible for the Zoning Commission to make the approval of a septic system by the State or other officials, a condition of approval for a Special Permit.

Mr. Owen stated that Atty. Zizka advised that a Special Permit stays with the property so there is nothing to renew when the property changes hands. He stated that Atty. Zizka provided language for a possible addition to section 13 of the Zoning Regulations that would require the new owner or lessee to submit a signed, notarized acknowledgement to the Commission that they have reviewed and understand the terms of the Special Permit, there will be no significant changes to the operation and that the Town of Washington Health Department has been notified of the new ownership or lease status.

Mr. Owen discussed the proposed revisions to Section 13.14 Bed and Breakfast Establishment, 15.2 Number of Parking Spaces, Section 4.4 Uses Permitted by Special Permit (R-1 District), Section 5.4 Uses Permitted by Special Permit (R-2 District), Section 6.4 Uses Permitted by Special Permit (Lake Waramaug Residential District), Section 7.4 Uses Permitted by Special Permit (New Preston Business District), Section 8.4 Uses Permitted by Special Permit (Washington Depot Business District), Section 9.4.8 (Marbledale Business District) and Section 10.4.5 (Woodville Business District).

Ms. Hill asked why the total seating capacity of the inn's eating and drinking establishment was based on the total overnight lodging capacity and not the total number of rooms. She asked how the overnight capacity could be determined. Mr. Owen stated that it would be the number of people the lodging facility sleeps. Mr. Averill stated that a thirty-room inn, with double occupancy would allow for a 120 person seating capacity eating and drinking establishment and he stated that he thinks this is too large for the residential districts. He stated that there should be a limit of thirty rooms for an inn in the R-1 District. He stated that he feels that the inn is going to be the accessory use to the restaurant. Mr. Averill stated that he does not agree with allowing a retail establishment as an accessory use under an inn in the R-1 District. He stated that in the proposed definition of an "Inn" the phrase "retail establishment" is vague and could mean anything. Mr. Wyant stated that is limited by it's allowed square footage. Mr. Abella stated that he agreed with the proposed language. Mr. Dubois stated that he was concerned with the proposed eating and drinking establishment seating capacity and that he feels that it is too high. He stated that he does not think that inns should be allowed on Town roads. Mr. Dubois stated that he was fine with the retail establishment but that he thought that 2,500 square feet was too large for a conference/meeting room. Mr. Reich stated that he did not have a problem with section 5.a-g under the proposed revision of Zoning Regulation 4.4.1. Mr. Owen stated that he was comfortable with the language and that he feels that the Special Permit process has been successful in limiting things such as size and scale. There was brief discussion regarding the Section 15 Parking. Mr. Owen stated that the Town's parking regulations are adapted directly from the Model Parking Regulations for the Northwest Corner of Connecticut. He stated that these Model Parking Regulations were generated by the Northwest Connecticut Council of Governments and are intended to serve the needs of Towns such as Washington.

Mr. Owen acknowledged that Mr. Dubois objects to the allowance of 2,500 square feet for meeting space. He stated that the Commission discussed square footage of meeting space at the Regular Zoning Meeting in March and that the Commission agreed that it was the

Commissions desire to make it possible for the Inn to provide this standard function but set a size limit on it so that it could not 'morph' into something else.

Mr. Owen stated that he feels that these revisions are consistent with the Town Plan of Conservation and Development and that inns are a part of the Town of Washington's history. He stated that the main adjustment with these revisions is that inns would be allowed on Town roads. He stated that the Special Permit process would determine the size and scope of an Inn. Mr. Averill stated that the Commission must refer to the Zoning Regulation(s) for the reason for declining an application. Mr. Owen stated that the impact of the neighborhood and the Town must be considered not just the impact of the property. Mr. Averill quoted Mr. Shapiro's comments on the latest draft of the proposed revisions.

#### **Motion:**

to schedule a Public Hearing on June 28, 2010 to consider the Revision of Zoning Regulation(s) Sections 21 – Definitions for Bed and Breakfast Establishment, Fitness Facility, Inn, etc, 2.3.6 – Sewage Disposal System, 13.5 Property Conveyance (new section), 13.9 – Inn, 13.14 Bed and Breakfast Establishments, 15.2 – Number of Parking Spaces, 4.4.1, 5.4.9, 6.4.14, 7.4.18, 8.4.20 and other related revisions throughout the text per Mr. Owen's documents, "Inn Regulations," dated 4/26/10 and "Additional," dated 4/26/10, by Mr. Reich, seconded by Mr. Abella, by 5-0 vote.

#### **Privilege of the Floor**

There were no comments from the public.

#### **Communications**

There were no communications to discuss.

#### **Enforcement**

The Commission considered Mr. Ajello's Zoning Enforcement Report, dated April 26, 2010. The Commission discussed Mr. Ajello's need to levy fines for two retail shops that have not responded to numerous Zoning Enforcement letters. The Commission discussed the Town of Washington – 16 Titus Road- Soil stockpiling near the Shepaug River.

#### **Adjournment**

Motion: to adjourn at 8:30 pm by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Mr. Owen adjourned the meeting.

**SUBMITTED SUBJECT TO APPROVAL:**

Shelley White, Land Use Clerk