

April 27, 2009

Present: Ralph Averill, David Owen, Valerie Friedman

Alternates Present: A.J. DuBois, Andy Shapiro

Absent: Gary Fitzherbert, Lou Abella, Harry Wyant

Staff Present: Janet Hill, Shelley White

Others Present: Bob Papsin, Michael & Lori Duch, Malina McNamara, Diane Stevens, Ann Neville

Mr. Owen called the meeting to order at 7:34 pm.

PUBLIC HEARING

Seated: Mr. Owen, Mr. Averill, Ms. Friedman, Mr. Dubois, Mr. Shapiro

Vincent (Duch)/181 New Milford Turnpike/Special Permit: Section 9.4.1.i/Storage Facility and Sign:

Ms. Friedman read the legal notice published in Voices on 4/15/09 & 4/22/09. Mr. Owen read the list of documents on file for this application. Mr. Duch stated Mr. Vincent, the owner of the property, has given him permission to use the barn as storage as well as erect a sign on the property for his masonry business. He displayed the A-2 Survey for the property and indicated the proposed location of the sign. Mr. Owen read Ms. Hill's administrative report. Mr. Owen asked if there were any questions from the commissioners. Ms. Friedman asked if there would be any more equipment needed for the business. Mr. Duch stated the business is starting out and he has light equipment and at this point does not have any need for heavy equipment. Mr. Averill stated a masonry business would possibly need a construction forklift but otherwise the equipment is fairly small. Mr. Duch stated if he needed a forklift he would have to rent it and leave it at the job site. Mr. Owen asked if there were any questions from the public. Diane Stevens and Mr. Papsin were concerned about safety considering the condition of the barn. Mr. Duch stated he would only be using the ground level, which he deems to be okay for storage. Bob Papsin asked where the sign would be located and if it would be lit. Mr. Duch explained the proposed location and reassured Mr. Papsin that it would not be lighted. Mr. Owen stated he was comfortable with the location of the sign. Melina McNamara of Mygatt Road asked if the business would be using Mygatt Road as an entrance and exit. Ms. Friedman stated this issue had come up with a previous special permit request to have a business on this property and commercial access had been restricted to Rt. 202 at that time. The Duchs stated they do not have any customers or employees coming and going. When asked by Ms. Stevens if allowing access from Mygatt Road in this case would set a precedent, Ms. Hill stated each special permit is unique so it would not. Ms. Friedman stated it is not the Zoning Commissions responsibility to address the condition of the building and asked who does have this responsibility. Ms. Hill stated she believed that it was an issue for the Building Official. Mr. & Mrs. Duch stated that they are planning to store wheelbarrows, scaffolding and planks in this barn. Mr. Owen stated that the most likely way to improve the condition of the building is to continue the use because the owner will have incentive to make repairs. All members agreed that this was not a Zoning Commission issue. Ms. Stevens asked if this would affect coming in and out of Mygatt Road. Mr.

Owen stated the proposal does not include closing off Mygatt Road. Mr. Averill stated the previous proposal to run a business out of this property is different from this proposal. He stated the Duchs would not have daily traffic in and out of the property, as this will be a storage facility only. Ms. Stevens asked if once this permit was granted as a storage facility would everything be stored in the barn and what would happen if it weren't. Mr. Owen stated it then becomes an enforcement issue.

Motion: to close the Public Hearing to consider the Special Permit Application submitted by Mr. Duch for a storage facility and Sign at 181 New Milford Turnpike, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

REGULAR MEETING

Regular Business

Mr. Owen called the Regular Meeting to order at 8:55 pm

Seated: Mr. Owen, Mr. Averill, Ms. Friedman, Mr. Dubois, Mr. Shapiro

Consideration of the Minutes

Corrections:

Page 6, under New Applications, the 1st line in the Motion should read: to schedule a Public Hearing on April 27, 2009.

Motion: to accept the Zoning Meeting Minutes of March 23, 2009 as corrected, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Pending Applications

Vincent (Duch)/181 New Milford Turnpike/Special Permit: Section 9.4.1.i/Storage Facility and Sign:

Mr. Owen asked if any of the commissioners would like to discuss the application. Mr. Averill stated he was in favor of this application and he agrees with Mr. Owen that the best way to improve the barn is for someone to be using it and he feels this is a good use for the building.

Motion: to approve the Special Permit Application: Section 9.4.1.i submitted by Mr. Duch for a Storage Facility and Sign at 181 New Milford Turnpike, by Mr. Owen, seconded by Mr. Shapiro, by 5-0 vote

New Applications

Morrissey (Hermans)/14 Hinckley Road/Special Permit: Section 4.4.15/General Home Occupation/Holistic Veterinary Consulting Office:

Dr. Ann Hermans was present to give the commission an explanation of her request. She has owned and operated a Holistic Veterinary Practice, by special permit, out of her main residence in Bridgewater for 10 years and she would like to move to Hinckley Road in New Preston and relocate her home-based business out of the residence. She explained 80% of her business is executed by phone and she has scheduled appointments 3 to 4 days a week and only 1 to 2 clients a day. She explained that she has one part time employee. She stated there

would not be any changes to the outside of the building and no sign. She operates a consulting practice, not a veterinary hospital, clinic or kennel so she does not use any medical equipment that would require special regulation and she does not need kennels as she does not provide hospitalization or boarding of animals. Mr. Owen asked the commission and Ms. Hill if there were any concerns. Ms. Hill stated she believes that the application meets all the general home occupation criteria.

Motion: to schedule a Public Hearing on May 18, 2009 to consider the Special Permit application: Submitted by Morrissey (Hermans) Section 4.4.15/General Home Occupation/Holistic Veterinary Consulting Office, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Other Business

Preliminary Discussion/Farmers Markets:

Mr. Owen read Ms. Hill's Administrative Report, dated April 27, 2009. Mr. Owen stated he would like to discuss two things relating to this subject; 1) The Zoning Commission previously has declined to add outdoor art galleries to the permitted uses as in the Averill Field sculptures, 2) The idea of putting a flea market next to the convenience store on Route 202. Mr. Averill asked where in New Preston this Farmers Market would be located. Ms. Ann Neville, one of the owners of the Firehouse, stated the Farmers Market would be located at 1 New Preston Hill. Ms. Friedman stated there was a Farmers Market outside the Senior Center/Legion Hall last summer, that the Zoning Regulations do not allow for this, but that it happened anyway. Ms. Hill asked if it was being held again this year. Ms. Friedman stated she believed it was and there is about 4 or 5 vendors. Ms. Neville stated the owner of 1 New Preston Hill would allow the use of the property's lawn and patio for a Farmers Market. Ms. Friedman asked what this Farmers Market would entail. Ms. Neville stated it would be similar to the Farmers Market in Woodbury. Ms. Hill stated 1 New Preston Hill was in the business district. Mr. Owen stated that since a Farmers Market is not allowed it would be necessary to make changes to the regulations in order to allow it. Ms. Neville asked if a Farmers Market would fit under the definition of a grocery store. Mr. Owen stated he did not think it would fit under the definition of a grocery store. There was a discussion as to how viable a Farmers Market would be in that location. Mr. Owen stated things to consider would be safety, parking, bathrooms and competition with the existing vegetable market. Ms. Friedman stated it would be important to define a Farmers Market so that it does not end up turning into a Flea Market. Ms. Hill said she would look at the Town of Cornwall's definition of a Farmers Market. There was a discussion about the definition of Farmstands. The commission agreed it would be beneficial to work on a definition for the Zoning Regulations. Mr. Shapiro volunteered to work on it. Ms. Neville was informed that revision of the regulations would be a lengthy process and so it would be unlikely the Commission could approve a Farmers Market in time for it to operate this summer.

Mr. Sedito's 2/23/09 Memo re: Request for Interpretation of Zoning Regulations: 1) Windmills 2) Wetlands 3) Special Exceptions:

1) Windmills:

Mr. Owen stated that he believed question regarding windmills was resolved at last months Zoning Meeting. After a brief discussion, all the commissioners agreed to leave the regulation as written.

2) Wetlands Setback:

Ms. Hill discussed how, in many cases a property owner with a nonconforming building applies for a Special Exception, and also needs to apply for a variance for setbacks to wetlands. A Special Exception does not require a proof of hardship but the variance for the setback to the wetlands does. The ZBA finds that in most cases if the Inland Wetlands Commission approves the proposed project, then why would they (ZBA) require the applicant to prove hardship for a variance. Ms. Hill stated the Special Exception is allowed under two conditions and

wetlands is not one of them. Ms. Hill stated she believed, as does the ZBA Chairman, it could be handled as a Special Exception if the regulation was amended to require Inland Wetlands approval as a prerequisite. Atty. Zizka will be consulted regarding the language to be added to Zoning Regulation 17.5. Ms. Hill will draft language for Mr. Owen and Mr. Sedito to review before it is referred to Atty. Zizka.

3) Special Exceptions:

In response to Mr. Sedito's question about Special Exceptions, Mr. Owen stated he should continue to follow Atty. Zizka's advice.

Privilege of the Floor

No one from the public was present at this time.

Communications

4/14/09 Notice from the Connecticut Siting Council re: Warren cell tower public hearing on 5/21/09:

Ms. Hill stated the meeting would be held at the Warren Town Hall.

Enforcement

The Zoning Commission read the 4/27/09 ZEO report.

Executive Session to Discuss Pending Litigation/Wykeham Rise, LLC.

Motion: to go into Executive Session to discuss pending litigation/Wykeham Rise, LLC, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Motion: to come out of Executive Session to discuss pending litigation/Wykeham Rise, LLC, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Subsequent Business

Motion: to add subsequent business to the agenda to discuss Allstar Transportation /80-82 Bee Brook Road, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

Mr. Owen reminded the commission about the proposed improvements of the School Bus Transportation depot on Bee Brook Road. Mr. Owen stated the Zoning Regulations currently do not permit this type of coverage in the area. Ms. Hill stated she believes the current coverage on the lot is about 90 percent and if the proposed plan were implemented, the total percentage of coverage on the two joined lots would decrease. The commissioners and Ms. Hill discussed how they could revise the Zoning Regulations to allow for improvements to the existing bus depot. Mr. Owen said he had discussed this matter with Atty. Zizka who had thought possible revisions to allow flexibility in coverage could be implemented. Discussion will continue at the next meeting.

Adjournment

Motion: to adjourn at 8:45 pm by Mr. Owen, seconded by Mr. Averill, by 5-0 vote

FILED SUBJECT TO APPROVAL:

Shelley White,
Land Use Clerk

March 23, 2009

Posted: April 1, 2009

Present: Gary Fitzherbert, Ralph Averill, David Owen, Lou Abella

Alternates Present: Harry Wyant, A.J. DuBois

Absent: Valerie Friedman Andy Shapiro,

Staff Present: Janet Hill, Shelley White

Others Present: Matt Klauer, Paul Szymanski, Engineer, Atty. Robert Fisher, Brian Neff, Engineer, Darryl Wright, Donna Wright, John Harris, Mike Gorra, Regine Laverge, Tom McGowan, Bob Papson, Dennis McMorrow, Engineer, Atty. James Steck, Residents

Mr. Owen called the meeting to order at 7:34 pm.

PUBLIC HEARINGS

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

Revision of the Zoning Regulations/Section 9.2.3/Add Offices to Permitted Uses Under Specific Circumstances in the Marbledale Business District:

Ms. Hill read the legal notice published in Voices on 3/11/09 & 3/18/09. Mr. Owen read the list of documents on file for this and the two following Public Hearings addressing revisions to the Zoning Regulations. Ms. Hill stated that there are other uses that are already permitted, such as small-scale retail businesses and art galleries, as long as there were not any exterior changes and offices are a logical permitted use to add to this regulation. She reported that the Planning Commission does not have any objections to this revision.

Motion: to close the Public Hearing to consider the revision of the Zoning Regulations/Section 9.2.3/Add Offices to Permitted Uses under Specific Circumstances in the Marbledale Business District, by Mr. Fitzherbert, seconded by Mr. Abella, by 5-0 vote.

Revision of the Zoning Regulations/Section 12.14.5/Deletion of Special Exception Provisions for Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen stated the Planning Commission has communicated that they have no objection to this revision. Mr. Owen asked Mr. Wright if he would like to comment. Mr. Wright suggested the decision could

be postponed and he could provide input to the process of re-wording the regulation so that it allows people who can afford a generator and have the acreage to locate a generator more than 25 ft. from the principal structure served and in the least obtrusive area for themselves and their neighbors. Mr. Owen stated the regulations are meant to put the responsibility on the homeowner to find the quietest solution in locating the equipment because it would be closer to them than their neighbors. He stated Zoning Commission has consulted with experts such as acoustical engineers to determine if there are things that can be done to muffle the noise of these types of equipment. He was told it would depend on the specific application because noise is affected by so many different variables. Mr. Wright stated he would like the commission to consider how many complaints have been received in the last 15 years and not to make a regulation that is too restrictive. Mr. Szymanski stated the special exception gave a little more leeway in placing a piece of equipment. His firm is currently trying to site a generator for a client that would be at least 1,000 feet away from any neighbor. He stated he was concerned that, by state statutes, his client would not be able to prove hardship. Mr. Owen stated the homeowner would have the responsibility of installing the equipment within the regulations and they will be more likely to going to make an effort to muffle the noise as much as possible. Mr. Szymanski asked if the Zoning Commission has looked at other towns' regulations regarding placement of noise generating equipment. Mr. Owen stated they had not. Mr. Averill stated there have been many advances on quieting generators. Mr. Wright stated the majority of generators in this area are used for emergencies. Mr. Owen suggested that maybe emergency generators could be separated from the rest of the noise generating equipment included in this regulation. Mr. Owen stated there are two options: 1) to vote on this revision tonight and possibly revisit it later, and 2) to postpone acting on the proposed revision in order to discuss it further. The members of the commission felt comfortable proceeding with the revision and agreed to include generators when they consider the regulations for windmills.

Motion: to close the Public Hearing to consider the revision of the Zoning Regulations/Section 12.14.5/Deletion of Special Exception Provisions for Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

Revision of the Zoning Regulation/16.4.1/ To allow Certain Business and Institutional Signs in the Residential Districts:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen stated the Administrative Report, dated 1/26/09, and the notes from the 1/26/09 Zoning Meeting, by Ms. Hill, are in the file in addition to the previous items stated. Mr. Owen read the 3/20/09 report from the Planning Commission (on file in Land Use Office) suggesting that further consideration be given to this revision. The Planning Commission suggested a 2 sq. ft. size limitation, lighting be prohibited or strictly limited, and the list of permitted businesses be eliminated. Mr. Owen asked for comments regarding the Planning Commission's recommendations. Mr. Owen read the proposed list of businesses permitted to have signs. Mr. Owen stated the purpose for these signs should be for the purpose of identification not for promoting a business. Mr. Averill stated he was in favor of the signs not being lit. Mr. Owen stated the lighting regulations for residential areas should be followed. He suggested that regulation 12.15 should be included and more specific about the lighting of signs. Ms. Hill stated that lighting of signs was not addressed however; the Zoning Regulations state if it is not listed as permitted it is prohibited. Mr. Owen stated the Zoning Commission will revisit this issue and at this time the regulation prohibits lighting of signs in residential districts.

Motion: to close the Public Hearing to consider the revision of the Zoning Regulation/16.4.1/ To allow Certain Business and Institutional Signs in the Residential Districts, by Mr. Fitzherbert, seconded by Mr. Averill, by a 5-0.

Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Mr. Owen read a list of items that were added to the file. Mr. Szymanski was present to represent the Conlons for this application. He

presented a written statement that the owner will reside on the premises for the duration of the permit. Mr. Szymanski and the members looked at the Studio/Garage Elevations, prepared for the Conlon Residence, Sheet # A-5, by Wesley H. Quigley III Architecture and Design, revised on March 23, 2009. The revised plans conform to the height requirements of the Zoning Regulation for an accessory building. Mr. Szymanski stated the accessory apartment contains 38.3% of the ground floor area of the main house and is in conformance with Zoning Regulation 12.5.2. Mr. Szymanski stated the Conlons received a variance of Sections 12.1.1, 12.1.2, 12.1.3 and 11.6.1 from Zoning Board of Appeals and will be filing it on the Town Land Records. Ms. Hill stated she notified the Towns of Warren and Litchfield regarding this application and did not receive a response.

Motion: to close the Public Hearing to consider Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment, by Mr. Fitzherbert, seconded by Mr. Abella, by 5-0 vote.

Harris/258 New Milford Turnpike/Special Permits: 1) Section 9.4.1.d/Restaurant-Addition, Site Improvements 2) Section 9.6.8/Request for Waiver of Building Setback from Residential Property Line:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen listed the contents in the file and read Ms. Hill's Administrative Report dated 3/23/09. Mr. Harris stated he is proposing to build an addition on an existing 12' x 20' concrete slab that will provide storage for utilities and liquor and to build a portico at the front entrance of the building that will be ADA compliant. Mr. Owen read the ZEO report dated 3/23/09. The report states that Mr. Harris has received approval from both Inland/Wetlands and ZBA for the proposed plan. Mr. Harris submitted a letter from the adjoining residential property owner approving all of the proposed changes. Ms. Hill suggested the commission make a separate motion to waive the 50 ft. setback requirement in 9.6.8 as Section 9.6 refers to a waiver by the commission. Ms. Hill asked if the sign would be lit. Mr. Harris said it would be lit with Dark-Sky friendly lighting.

Motion: to close the Public Hearing to consider Harris/258 New Milford Turnpike/Special Permits: 1) Section 9.4.1.d/Restaurant-Addition, Site Improvements 2) Section 9.6.8/Request for Waiver of Building Setback from Residential Property Line, by Mr. Averill, seconded by Mr. Fitzherbert, by 5-0 vote.

2M Properties/278 New Milford Turnpike/Special Permit: Section 9.4.1.h/Convert 2nd Floor Apt. to Office and Staff Area for Aspetuck Animal Hospital:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen read the list of the contents in the file. Dr. Gorra explained there would not be any exterior changes. Ms. Hill stated building would be changing from part residential/ part commercial to all commercial.

Motion: to close the Public Hearing to consider 2M Properties/278 New Milford Turnpike/Special Permit: Section 9.4.1.h/Convert second floor of existing commercial building to office and staff area, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

LaVerge/226 Bee Brook Road/Special Permit: Section 13.13/Bed and Breakfast Establishment:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen read the list of the contents in the file. Ms. Hill read her administrative report, dated 3/23/09. The 3/23/09 email sent by adjoining property owners, Mr. & Mrs. Mathews, (copy on file in Land Use Office) stated a concern about traffic on the shared driveway with Ms. Laverge. Atty. Fisher was present to represent Ms. Laverge. He stated that the Laverge property is 42 acres and a one-bedroom bed & breakfast should not have any impact on the adjoining properties. Ms. Hill

and the commission looked at the Lot Line Revision, Site Analysis Plan, prepared for Regine Laverge, by T. Michael Alex, dated April 1993.

Motion: to close the Public Hearing to consider Laverge/226 Bee Brook Road/Special Permit: Section 13.14/Bed and Breakfast Establishment, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote

Bennett/80 East Shore Road/Special Permit: Section 6.5/Addition to Dwelling within 50-75 ft. of Lake Waramaug:

Ms. Hill read the legal notice published in Voices on 3/11/09-3/18/09. Mr. Owen read the list of the contents in the file. Mr. Neff was present to represent Ms. Bennett. He presented the Storm water Management & Landscape Plan/Addition to the Bennett Residence, by Brian Neff, dated 2/21/09. Mr. Neff stated the closest point of the house is 62 ft. from Lake Waramaug. He explained the proposed plan is to convert the house from a 1 ½ to a 2 story home. It was confirmed that the Inland Wetlands Commission has approved the proposed plan. Mr. Tom McGowan of the Lake Waramaug Task Force was present and looked at the Storm water Management & Landscape Plan. Mr. Neff explained how they storm water management system would work. Mr. McGowan stated the system would need to be cleaned out periodically as there would be sediment build up. Mr. Neff stated the system would need some maintenance that would be dependent on the amount of rainfall. Mr. McGowan asked that there be a condition put on the approval that the owner acknowledges that the system needs to be maintained in order to operate properly. Mr. McGowan asked about the septic system. Mr. Neff explained that the existing septic system is not failing so it will be used for now and an area on the upper portion of the property has been located for a new system when necessary. Mr. McGowan asked about the parking space along the road. He stated the LWTF would like to see the parking away from the lake. Mr. Neff stated there is not an increase in impervious surfaces and there will be a reduction in storm water run off due to the addition of the roof system for the proposed project. He stated the existing parking is on state property and there would have to be extensive blasting on the owner's property along June Road if they were to provide parking away from the lake. Mr. Papson does maintenance for this property and was present. He stated the catch basins along East Shore Road clog up in the fall and the leaves on the property should be cleaned up once or twice a year.

Motion: to close the Public Hearing to consider Bennett/80 East Shore Road/Special Permit: Section 6.5/Addition to Dwelling within 50-75 ft. from Lake Waramaug, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote

REGULAR MEETING

Regular Business

Mr. Owen called the Regular Meeting to order at 8:55 pm
Seated: Mr. Owen, Mr. Abella, Mr. Averill, Mr. Fitzherbert, Mr. DuBois

Consideration of the Minutes

Motion: to accept the Zoning Meeting Minutes of February 23, 2009 as submitted, by Mr. Owen, seconded by Mr. Averill, by 5-0 vote.

Other Business

Revision of the Zoning Regulations/Section 9.2.3/Add Offices to Permitted Uses under Specific Circumstances in the Marbledale Business District:

Mr. Owen asked if there were any questions or comments from the commission.

Motion: to approve the revision of the Zoning Regulations/Section 9.2.3/Add Offices to Permitted Uses under Specific Circumstances in the Marbledale Business District, by Mr. Owen, seconded by Mr. Abella, by 5-0 vote

Revision of Zoning Regulations/Section 12.14.5/Noise Generating Equipment:

Mr. Owen asked if there were any questions or comments from the commission.

Motion: to approve the revision of the Zoning Regulations/Section 12.14.5/Deletion of Special Exception Provisions for Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

Revision of Zoning Regulations/16.4.1/To allow Certain Business and Institutional Signs in the Residential Districts:

Mr. Owen read the proposed revision to section 16.14.1. He asked if there were any questions or comments from the commission.

Motion: to approve the revision of the Zoning Regulation/16.4.1/ To allow Certain Business and Institutional Signs in the Residential Districts, by Mr. DuBois, seconded by Mr. Abella, by a 5-0 vote.

Pending Applications

Conlon/6 Valley Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Mr. Owen stated that two conditions had been mentioned: 1) The variance is recorded on the land records and 2) an As Built regarding height is submitted. He asked if there were any questions or comments from the commission.

Motion: to approve the Special Permit application: Section 13.11.3 submitted by Conlon for a Detached Accessory Apartment at 6 Valley Road, with the condition(s) that 1) the variance be recorded on the Town Land Records before the permit is issued, and 2) An As-Built be submitted to the Town to confirm the height of the accessory building meets the Zoning Regulations before the certificate of zoning compliance is issued, by Mr. Owen, seconded by Mr. Abella, by 5-0 vote.

Harris/258 New Milford Turnpike/Special Permits: 1) Section 9.4.1.d/Restaurant-Addition, Site Improvements 2) Section 9.6.8/Request for Waiver of Building Setback from Residential Property Line:

Mr. Owen read section 9.6.8. He asked if there were any questions or comments from the commission.

Motion: to waive Zoning Regulation/Section 9.6.8 in regard to side yard setback for the Special Permit application submitted by Harris/258 New Milford Turnpike, by Mr. Owen, seconded by Mr. DuBois, by 5-0 vote.

Motion: to approve the Special Permit application: Section 9.4.1.d submitted by Harris for Restaurant-Addition, Site Improvements at 258

New Milford Turnpike, by Mr. Owen, seconded by Mr. DuBois, by 5-0 vote.

2M Properties/278 New Milford Turnpike/Special Permit: Section 9.4.1.h/Convert 2nd Floor Apt. to Office and Staff Area for Aspetuck Animal Hospital:

Mr. Owen asked if there were any questions or comments from the commission.

Motion: to approve the Special Permit application: Section 9.4.1.h submitted by 2M Properties to convert 2nd floor to Office and Staff area for Aspetuck Animal Hospital at 278 New Milford Turnpike, by Mr. Averill, seconded by Mr. DuBois, by 5-0 vote.

LaVerge/226 Bee Brook Road/Special Permit: Section 13.13/Bed and Breakfast Establishment:

Mr. Owen asked if there were any questions or comments from the commission.

Motion: to approve the Special Permit application: Section 13.14 submitted by Laverge for Bed and Breakfast Establishment at 226 Bee Brook Road, by Mr. Owen, seconded by Mr. Abella, by a 5-0 vote.

Bennett/80 East Shore Road/Special Permit: Section 6.5/Addition to Dwelling within 50-75 ft. of Lake Waramaug:

Mr. Owen read the condition for approval of this special permit. He asked if there were any questions or comments from the commission.

Motion: to approve the Special Permit application: Section 6.5 submitted by Bennett for Addition to Dwelling within 50-75 ft. of Lake Waramaug at 80 East Shore Road with the conditions that: 1) Cultec C-4 Roof Infiltration System be maintained properly by the home owner, and 2) Proof the variance has been filed on the Town Land Records be submitted to the Land Use Office, by Mr. Owen, seconded by Mr. Abella, by a 5-0 vote.

New Applications

Winans-Vincent/181 New Milford Turnpike/Special Permit: Sections 9.4.1.i/Storage Facility for Small Scale Business:

Ms. Hill updated the commission on the property. She noted the applicants proposed storage for their masonry business and to erect a sign

Motion: to schedule a Public Hearing on April 20, 2009 to consider the Special Permit application – Winans-Vincent/181 New Milford Turnpike: Section 9.4.1.i/Storage Facility for Small Scale Business, by Mr. Owen, seconded by Mr. Abella, by 5-0 vote.

Other Business (continued)

Preliminary Discussion/Petition to Amend Zoning Regulations to Allow Dispatch Offices for Local School Transportation by Special Permit in the B-2 District:

Mr. Dennis McMorro, Engineer, from Berkshire Engineering and Surveying, LLC. and Atty. James Steck of Herbst & Herbst, LLC. were present to discuss the Feasibility Layout Plan, #2, prepared for All Star Transportation/80-82 Bee Brook Road, by Berkshire Engineering and Surveying, LLC., dated 2/16/09. Mr. Owen stated that the use of this property would require more coverage than what is permitted in this zone although the existing coverage was already over the maximum permitted. Atty. Steck stated the proposed joining of the two lots results

in a decrease in the percentage of coverage. Mr. Fitzherbert stated that in previous situations there have been trade offs when there has been an improvement in appearance of the area. Mr. Owen stated the town needs school buses and this would be an improvement. Mr. Steck stated there would be a reduction in curb cuts and more room for landscaping. There was a discussion among the members, Atty. Steck and Mr. McMorrow about amending the regulation to specifications for this specific dispatch office. Mr. Owen stated the Zoning Commission would be willing to pursue such a request and this was a topic that would have to be discussed with Atty. Zizka.

Privilege of the Floor

Mr. Papson asked if there were any regulation for free standing solar panels. Mr. Owen stated they would have to be treated as a structure. Mr. Owen stated the regulations need work with how they relate to wind turbines and windmills. Ms. Hill stated she thought that solar panels are exempt from the Historic District Regulations.

Communications

3/08 letter from Mr. Talbot re: Lot Coverage and Creation of Parcels:

Ms. Hill stated Atty. Zizka advised the Zoning Commission could not make any policy statements about this type of situation and cannot guarantee that it will not happen again in Washington. And, if it does the commission will have to evaluate each case on its own.

2/23/09 letter from Mr. Sedito/ZBA:

Mr. Owen stated the question regarding windmills has been resolved as far as ZBA is concerned but not where the Zoning Regulations are concerned. The question regarding 17.5.c.1 does refer to accessory buildings only. The question regarding wetlands setback is still being worked on.

Enforcement

The Zoning Commission read the 3/23/09 ZEO report.

Discussion of Pending Litigation/Wykeham Rise, LLC.

Mr. Owen stated that another neighbor has applied to be an intervener in the case. Atty. Zizka asked the Zoning Commission to discuss if anyone opposes this neighbor having intervener status. No one from the commission opposed. The commission selected Mr. Owen, as the Chairman, to be the representative for the Zoning Commission. The Zoning Commission also had no objection to the mediator recommended by Atty. Zizka.

Motion: for Mr. Owen, Chairman of the Zoning Commission, to represent the Zoning Commission at Mediation Sessions re: Wykeham Rise, LLC., by Mr. Fitzherbert, seconded by Mr. Abella, by 5-0 vote.

Adjournment:

Motion: to adjourn at 9:45 pm by Mr. Fitzherbert, seconded by Mr. Owen

FILED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk
4/1/09