

April 28, 2008

MEMBERS PRESENT: Mr. Abella, Mr. Averill, Mrs. Friedman

MEMBERS ABSENT: Mr. Fitzherbert, Mr. Owen

ALTERNATES PRESENT: Mr. DuBois, Mr. Shapiro, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Szymanski, Mr./Mrs. Tagley, Mr. Papsin,

Mr./Mrs. Johnson, Ms. Stevens, Mr. Armstrong,

Mrs. McNamara, Mr./Mrs. Sebihacric, Mr. Bohan

Mrs. Friedman called the Public Hearings to order at 7:32 p.m. and seated Members Averill and Friedman and Alternates DuBois, Shapiro, and Wyant for Members Abella, Fitzherbert, and Owen.

PUBLIC HEARINGS

Revision of the Zoning Regulations/Section 16.5.1/Non Residential District Signs

Mrs. Friedman called the Public Hearing to order and seated Mr. Abella, who arrived at 7:35 p.m., for Mr. DuBois. She then read the legal notice, which was published in **Voices** on April 16 and 23, 2008 and the list of documents in the file. She read the 3/17/08 comments from Mr. McGuinness, Director of the NW Ct. Council of Gov'ts, which warned that allowing signs to be erected at the property lines might result in unsafe sight lines.

Mrs. Friedman explained to the public that the reason for the proposed amendment was that in several areas of the business districts the state right of way along the state highway was so wide that business signs posted 10 feet back from the front boundary line were not visible to passers by.

Mr. Shapiro asked why the amendment addressed only the front boundary line. Mr. Ajello responded that commercial signs shouldn't necessarily be permitted right next to adjoining properties. Mrs. Friedman asked if rear property lines should be added, but Mr. Ajello could not think of an example where a rear boundary line would apply and said the purpose of the amendment was to alleviate the problem of visibility when due to a wide state easement, the sign would have to be posted too far from the road.

Mrs. Friedman asked who would deal with the safety issues raised by Mr. McGuinness. Mr. Ajello said it would be his responsibility to check them out as part of the application process.

Mr. Shapiro clarified that the proposed language was: *16.5 Non Residential District Signs. The following signs are permitted in non residential districts: 16.5.1 No sign shall be closer than 10 ft. to any side property line.*

There were no questions or comments from the public.

MOTION: To close the public hearing to consider revisions to the Washington Zoning Regulations: Section 16.5.1 regarding non residential district signs. By Mr. Abella, seconded by Mr. Shapiro, and passed 5-0.

Mrs. Friedman closed the public hearing at 8:45 p.m.

Vincent/181 New Milford Turnpike/Special Permit: Section 9.4.1.i/ Storage Facility and Small Scale Business Establishment

Mrs. Friedman called the Public Hearing to order at 8:46 p.m., read the legal notice published in **Voices** on April 16 and 23, 2008, and the list of documents in the file. Mr. Ajello noted that he had also received a list of 11 adjoining property owners with addresses and 11 white certified mailing receipt cards.

The map, "Site Development Plan," with 5 attached sheets, by Arthur H. Howland and Assoc., revised to 4/28/08 was reviewed.

Mr. Szymanski, engineer, noted the property was 2.8 acres in the Marbledale Business District with an existing house and barn. He proposed to rebuild the barn on the same footprint and to use it for a 900 sq. ft. office and for contractor storage. He said the applicant was concerned about preserving the character of the neighborhood and presented architectural plans, "Proposed New Elevations," and "Proposed New Floor Plans," by Mr. Bowman, dated February 2008. The architectural features of the barn were detailed. Mr. Szymanski then pointed out the screening proposed along Mygatt Road and the parking areas. Roof runoff, he said, would be run from the barn into three in ground infiltrators sized for a 100 year storm. He concluded by saying there would be no change in the existing curb cuts and there would be a small dumpster on the west side of the site, screened, and as far from Mygatt Road as possible.

Mrs. Friedman read the 4/28/08 ZEO Report.

Mr. Szymanski noted the proposed lighting complied with the Town's outdoor lighting requirements for residential districts and said that notes regarding the lighting were included on the "Site Development Plan." He said that no sign was proposed at this time.

Mrs. Friedman asked what hours the outdoor lights would be on. Mr. Szymanski said they would be on from 7:30 a.m. until 5:30 p.m. and that the security lighting would be on sensors.

Mrs. Friedman asked which of the curb cuts would be used by the business. Mr. Szymanski said commercial traffic would primarily use Rt. 202.

Mr. Averill asked if the owner of the business would reside in the existing dwelling. Mr. Szymanski said, no, it would be rented.

Mr. Shapiro pointed out that the application included the expansion of the existing barn from 5000 to 5300 sq. ft. and noted that had to be

applied for separately. Mrs. Friedman and Mrs. Hill agreed that 5000 sq. ft. was the maximum size permitted for a commercial building in the B-3 District unless a separate Special Permit was granted per Section 9.5. Mr. Szymanski stated that the lot coverage would not change and he and Mr. Ajello argued that the criteria listed in Section 9.6 applied to all Special Permits, not just those under Section 9.5.

Questions and comments were taken from the public.

Mrs. Johnson asked how many employees there would be. Mr. Szymanski said there would be between 6 and 10 employees. Mrs. McNamara asked if every employee would have a vehicle. Mrs. Johnson asked if the employee vehicles would access the property from Mygatt Road. Mr. Szymanski said they could use either entrance, but knowing the sensitivity of the neighbors, he said Rt. 202 was the intended entrance. Mr. Johnson noted that because Rt. 202 has more traffic and a steeper driveway, the employees would use Mygatt Road because it would be more convenient. The other members of the public agreed. Mrs. Johnson stated the traffic and lighting were the main concerns of the neighboring property owners and she asked how large the vehicles would be that would be entering and exiting the site. Mrs. Friedman thought the Commission might require access from Rt. 202. Mr. Szymanski stated the curb cut on Mygatt Road was existing and would not be used for more than 35 total trips per day.

Mr. Tagley spoke of the poor condition of Mygatt Road and his concern about an increase in traffic using it. Mr. Szymanski had previously said there would be no retail use on the property so the traffic increase would be modest, by Mr. Tagley noted that once approved, the business could be sold and since it was commercially zoned, there would be no control over whether a retail business went in. He asked the Commission to restrict the entrance from and exiting of traffic onto Mygatt Road. Mr. Ajello noted that any future proposed business expansion would require another public hearing.

Mr. Szymanski said the nature of the contractor business going into the barn was that 98% of business would be conducted at the clients' homes. Mrs. Friedman, then, asked what the hardship would be if the Commission were to restrict access to Rt. 202 only. Mr. Szymanski said the Mygatt Road curb cut was existing and the applicant had the right to use it.

Mrs. Johnson said she had no objections to the renovation of the barn or the commercial use of the property, but did not want access from Mygatt Road as that would, in effect, make her residential property commercial. Mr. Papsin agreed, saying the properties across Mygatt Road are residential and so the Mygatt Road curb cut should be eliminated. Mr. Johnson noted the Mygatt Road curb cut for the New Preston Firehouse had been eliminated.

Mrs. Sebihacric feared there would be more traffic using her driveway as a turnaround, asked that the access be limited to Rt. 202, and expressed her concerns about the proposed outdoor lighting.

Mrs. Tagley noted the property had previously been agricultural, and the Mygatt Road curb cut had been for agricultural use. She said the application was for a change of use and so the curb cut did not have to remain.

Mr. Averill said he was familiar with electrical contracting businesses and noted most of the traffic generated would be first thing in the morning and at the end of the work day. He was not sure which access would be safer. Mr. Shapiro thanked the members of the public for their comments noting that although there was no scientific data on how much traffic the business would generate, the Commission could

take their comments into consideration because this was a Special Permit application.

Mr. Averill asked if the Mygatt Road exit could be limited to left turns only. Mr. Papsin and Mr. Johnson thought improvements to the Rt. 202 driveway would be a better solution. Mr. Szymanski said the improvements would be possible, but would necessitate the cutting of 10 trees and cutting the bank back 25 feet to improve the sight lines.

Mrs. Hill noted the character of this residential neighborhood had experienced many incremental changes such as increased traffic, noise, commercial uses, and lighting that had adversely impacted it over the years and she thought since there was a relatively simple way to address the concerns of the neighbors by prohibiting the commercial use of the Mygatt Road access, the Zoning Commission should do so.

Mr. Armstrong noted that traffic often speeds on Mygatt Road.

Mr. Johnson stated that Rt. 202 is commercial so the access should be made to work there. He urged the Commission not to let the applicant use Mygatt Road just because it would be easier for him to do so. Mr. Ajello noted there would be no way to enforce an agreement that 90% of the traffic had to use the Rt. 202 access and said he agreed with Mr. Johnson that if it was there, the majority of the traffic would use the Mygatt Road curb cut. Mr. Bohan agreed and said the Commission should not confuse safety with convenience.

Mr. Ajello noted there was a precedent with the Mayflower Inn because the Commission had prohibited it from using its Wykeham Road access.

Mrs. Friedman noted the Commission had also restricted commercial traffic to the Rt. 202 access for the Ross property on Wilbur Road.

Lighting was again discussed briefly. Mr. Szymanski stated the security lighting would be on motion sensors with a 10 minute shut off. Mrs. Friedman noted the Commission did not want commercial lighting on all night. Mr. Szymanski stated it would not be on all night and referred to the notes on the plan, which he said called for lighting that would maintain the character of the adjoining residential neighborhood. He said there would be no floodlights at the corners of the building and all light fixtures would be pointed down and would have shields. Mrs. Friedman noted the Commission did not yet have outdoor commercial lighting regulations and so appreciated the applicant's efforts.

A woman asked if work would be conducted on the weekends, noting there are many children on Mygatt Road on weekends.

Mrs. Friedman noted there was a sight line issue and asked whether the Zoning Commission was knowledgeable enough to address it. Mr. Shapiro asked if entering onto Rt. 202 was unsafe. Mr. Averill said it was not, but he thought entering onto Mygatt Road might be safer. Mr. Shapiro noted the existing berm that obscures the sight line could be removed. Mr. Szymanski said it could, but the vegetative buffer along Rt. 202 would also have to be removed. Mr. and Mrs. Johnson noted that both the nearby Aspetuck Gardens access, which is steeper, and the grade of the Firehouse driveway "work" and are "very useable."

Mrs. Friedman agreed with Mrs. Hill that the adjoining residential neighborhood had had many intrusions and so if it was possible to accommodate the neighbors it was her inclination to do so. She said as long as it was safe there was no compelling reason not to limit the

access to Rt. 202. She noted this would not restrict the commercial use of the property. Mr. Szymanski said this access could be made to work. Mr. Ajello suggested that the planting of a vegetative screen across the Mygatt Road access would prevent its use.

Mrs. Friedman asked how many trucks would be parked on the property. Mr. Szymanski thought perhaps one truck would be parked on the downhill side and that possibly a tractor and an excavator might be parked there in the future. Mr. Papsin asked if the Commission could prohibit the parking of heavy equipment on site. Mr. Ajello said the lower parking area would be well screened. Mr. Szymanski noted that the applicant was aware of the neighbors' concerns. He added a row of screening along Mygatt Road on the south side of the barn to the "Site Development Plan." He noted, too, that much of the storage on site would be inside in the lower level of the barn. Mr. Ajello noted a condition of approval would be that the applicant would be required to maintain the vegetative buffer.

Mr. Szymanski thanked the neighborhood for its input, noting he felt that it improved the application process.

MOTION: To close the public hearing to consider the Special Permit application: Section 9.4.1.i submitted by Mr. and Mrs. Vincent for a storage facility and small scale business establishment at 181 New Milford Turnpike. By Mr. Averill, seconded by Mr. Abella, and passed 5-0.

Mrs. Friedman closed the public hearing at 8:47 p.m.

These public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mrs. Friedman called the Regular Meeting to order at 8:50 p.m. and seated Members Abella, Averill, and Friedman and Alternates Shapiro and Wyant.

Consideration of the Minutes

The 3/24/08 Public Hearing/Regular Meeting minutes were accepted as corrected. On page 10 the correct spelling of "egregious" was noted.

MOTION: To accept the 3/24/08 Regular Meeting minutes as corrected. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

The 4/14/08 Public Hearing/Special Meeting minutes were accepted as corrected. On page 2 the correct spelling of "McDermott" was noted. On page 3, in the bottom motion, the correct address is 159 South Street, not 59 South Street.

MOTION: To accept the 4/14/08 Special Meeting minutes as corrected. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

Pending Applications

Vincent/181 New Milford Turnpike/Special Permit: Section 9.4.1.i/ Storage Facility and Small Scale Business Establishment: Mr. Abella said he supported a condition to require access from Rt. 202 only. The map, "Site Development Plan" was reviewed again. Mr. Ajello

drafted the condition of approval below. Mrs. Friedman noted that the proposed lighting was detailed on the plan so a condition regarding lighting was not necessary. It was also the consensus that a condition to limit the hours of operation was not necessary because the business had no noise generating equipment. Mr. Ajello did note, however, that in the case of an emergency, electrical trucks might be called out. Mrs. Friedman stated that with the access limited to Rt. 202 she was not very concerned about the hours of operation.

MOTION: To approve the Special Permit application: Section 9.4.1.i submitted by Mr. and Mrs. Vincent for a storage facility and small scale business establishment at 181 New Milford Turnpike with the condition that a substantial buffer of vegetation shall be maintained from the south corner of the property on Mygatt Road to the old foundation as shown on the map, "Site Development Plan," by Arthur H. Howland & Assoc., dated 4/15/08 and revised to 4/28/08 to act as both a screen for the nearby residential properties and as a traffic barrier to prevent commercial access from Mygatt Road. By Mr. Wyant, seconded by Mr. Abella, and passed 5-0.

New Application

Reynolds/44 West Shore Road/Special Permit: Section 6.6.12/Dock: Photos of the proposed location for the dock were circulated. Mr. Ajello explained that the property was only 21 feet wide and so the dock could not meet the setback requirements. He noted the dock would be centered on the existing concrete and two 4' X 8' sections would be installed in a T shape. A public hearing was scheduled for May 19; the sixth hearing of the night.

Other Business

Revisions to the Washington Zoning Regulations: Mrs. Friedman briefly reviewed the list of proposed revisions scheduled for public hearings on May 19.

Revision of the Zoning Regulations/Section 16.5.1: Signs in Non Residential Districts: It was noted the language that Mr. Shapiro had read at the public hearing was being considered.

MOTION: To approve the revision of Section 16.5.1 of the Washington Zoning Regulations regarding non residential district signs as proposed. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

Revision of the Zoning Regulations/Sections 12.4, 12.14.3, 12.14.5 Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment: It was noted that Mr. Owen will discuss this regulation and possible revisions with the Zoning Board of Appeals.

Petition to Amend the Zoning Regulations Sections 11.5.1, 11.5.2, and 21.1.37 re: Lot Coverage and to Create New Section 11.5.3 re: Maximum Lot Coverage for Pervious Surfaces and Add Definition in Section 21 for "Pervious Traveled Surfaces": Mrs. Friedman thought the Commission should be very cautious about changing the definition of "Lot Coverage." She suggested that if the pervious surfaces being promoted in the petition were so beneficial, the Commission should require their installation in specific areas such as those surrounding the lake, on steep slopes, etc. If done this way it would not be necessary to monitor the trade-off or the maintenance and preservation of the pervious surfaces. She added that enforcement of these revisions would be very difficult. Mr. Averill agreed. Mrs. Hill noted that there are many kinds of pervious surfaces and said the Commission should make sure that any revisions to the Regs are not tied in

with only one particular type. Mr. Averill asked if loose stones now count as lot coverage. Mrs. Hill said they do because they are a traveled surface. Maintenance of the pervious surfaces was discussed. Mr. Wyant thought the length of time they would last would depend partly on a proper base and Mr. Shapiro noted that if necessary repairs weren't done or if the pervious surface was paved over, by that time the lot coverage would have already been expanded.

Possible Revision of the Zoning Regulations/Section 16/Business Signs in Residential Districts: It was noted that while signs for inns, bed and breakfast establishments, or organizations such as the Washington Club may be appropriate for residential districts, commercial signs were not. Mrs. Hill pointed out that one of the criteria for the approval of the few business uses permitted in residential districts was that the property look residential; that there was no evidence of the business from outside.

Revision of the Regulations/Outdoor Commercial District Lighting: Work has not yet begun on this revision.

Privilege of the Floor

Mr. Papsin asked if there were size limits for signs in residential districts. Mrs. Friedman said there was, but that the Commission had discussed the possibility of increasing the maximum size to 4 sq. ft. She noted signs must be unlighted and modestly sized to fit in with residential neighborhoods.

Enforcement

It was noted that the signs at 13 River Road and 210 New Milford Turnpike were still a problem. Mr. Ajello said he had not yet sent letters to property owners with problem lighting as the Commission had requested. 210 New Milford Turnpike was discussed because it had recently extended the hours its outdoor lighting is on. Mr. Ajello pointed out that the Zoning Regs don't address hours of operation. Mrs. Hill asked if the section on nuisances could be used. Mrs. Friedman asked Mr. Ajello to contact the property owner regarding this excessive lighting.

Mr. Papsin asked if the Commission had written to CL&P to complain about its lighting fixtures in New Preston. Mr. Ajello said he had not. Mrs. Friedman noted these lights are an important aspect of the commercial district lighting and she suggested the letter should be sent by the Board of Selectmen as other towns in the NW corner have done.

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

Mrs. Friedman adjourned the meeting at 9:31 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator

