

May 21, 2007

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

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Szymanski, Mr. Sherratt, Mr. Talbot, Mr. Papsin, Mr. Tagley, Mr./Mrs. Parsell, Mr. T. Parsell, Mr. Lasar, Mr./Mrs. McTiernan, Atty. Federer, Atty. Ebersol, Mr. Wadelton, Mr. Fowlkes, Ms. Ebner-Martin, Mr./Mrs. Ebner, Residents

Mr. Owen called the Meeting/Public Hearings to order at 7:30 p.m. and seated Members Abella, Averill, Fitzherbert, Friedman, and Owen for all of the following hearings.

PUBLIC HEARINGS

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

Mr. Owen called the hearing to order at 7:30 p.m. Mrs. Friedman read the legal notice published in **Voices** on 5/9/07 and 5/16/07. Mr. Owen read the list of documents in the file.

Mr. Szymanski, engineer, presented the map, "Proposed Site Development Plan," by Arthur H. Howland, PC, revised to 4/11/07. He noted that the Health Department and the Inland Wetlands Commission had approved the application. He pointed out which of the accessory structures would be demolished, the proposed location of the new classroom building, how it would be pulled back from both boundary lines and from watercourses, and the dormitory where additions were proposed on the southwest side. He said the school was working for LEED certification.

Mr. Talbot, architect, noted there 9 buildings currently on the property, 4 would be demolished, and the new classroom building and a new accessory building for utilities would be constructed.

Mr. Owen read the 5/21/07 ZEO report.

Mrs. Friedman asked if there were coverage issues. Mr. Szymanski said, no, the property had 160 acres.

Mr. Fitzherbert asked if the proposed improvements would increase the potential for the school operation to increase in intensity. Mr. Ajello noted there were no immediate plans for expansion, but said in the long term the larger classroom building would make expansion possible. Mr. Sherratt briefly described the programs offered by the Horace Mann School and the number of students using the facility, which he said

was maxed out at 1200 per year and said there were only four teachers and no plans to increase that number. He said the proposed layout would provide the school with more flexibility. Mr. Szymanski noted, too, that handicapped access would be improved.

There were no other questions or comments from the public or from the commissioners.

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.10 submitted by John Dorr Nature Lab to demolish the lodge, construct a larger classroom building, construct additions to the dormitory, etc. at 220 Nettleton Hollow Road. By Mr. Fitzherbert, seconded by Mr. Abella, and passed 5-0.

Mr. Owen closed the public hearing at 7:45 p.m.

McTiernan/53 Calhoun Street/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Owen called the hearing to order at 7:45 p.m. Mrs. Friedman read the legal notice published in **Voices** on 5/9 and 5/16/07. Mr. Owen noted all the documents in the file.

Mr. Lasar, architect, noted the location of the 14 acre property where, he said, there was an existing 700 sq. ft. detached accessory apartment. The owners proposed to expand it to 1200 sq. ft. and to add a screened porch. He said the existing house was 1288 sq. ft. not including the garage.

Mr. Owen read the 5/21/07 ZEO report.

Mr. Ajello noted a sheet comparing the sizes of the apartment and primary dwelling was included in the application. Mr. Owen noted the figures were confusing because on this sheet the square footage for the house included the attached garage, but the apartment figures did not include the attached screen porch.

Mr. Shapiro noted Section 13.11 of the Regulations requires accessory apartments to be clearly subordinate to and lesser in size and scale than the primary structure. Mr. Owen agreed that clear subordination was a requirement.

Mr. Ajello referred to Section 12.5, which, he said, allowed an accessory building to be up to 75% of the ground floor area and volume of the primary building on the same property. Mr. Owen noted Section 13.11 applied to accessory apartments and read the intent of this section that states a second substantial dwelling on the same property shall not be permitted. He noted the proposed apartment was the maximum size permitted and very close in size to that of the existing dwelling.

Mr. Lasar said the property was 14 acres; large enough to accommodate the two dwelling units, the apartment was in the rear of the property and hidden from view, the apartment was 5 ft. less in height than the dwelling and had no foundation, the volume of the proposed apartment was less than the dwelling, the apartment had a hip roof, while the dwelling had a gable roof, and said the Regulations never anticipated a primary dwelling of only 1288 sq. ft.

Mr. Fitzherbert noted the Regs state the apartment must be smaller in size and scale than the principal dwelling, but asked whether that

included only living area or the entire structure and if decks counted. It was noted for accurate comparisons, either both the dwelling's attached garage and the apartment's proposed screened porch should be counted for the size of the entire structure or neither should be counted if only living area was considered. Mr. Owen stated the Commission considers the entire building when reviewing the footprint.

The floor plans and elevations were compared. It was noted that each building had a deck, but they were not indicated on the floor plans.

Mr. Wyant noted he had been on the property and verified the existing accessory apartment was smaller and lower than the house. Mrs. Friedman noted, however, the applicant was proposing to increase the size of the apartment.

Mr. Owen noted the Commission had to carefully consider the application because it was "enough like what we're trying to avoid." He asked for revised plans that accurately reflected exactly what exists on the site and what was proposed and suggested the hearing be continued. Mr. Fitzherbert agreed that all of the information should be submitted before the Commission makes any decision regarding the scope and the size of the project. Mr. Averill also thought the plans should be complete so the two structures can be accurately compared before any action is taken. He thought a precedent might be set.

Mr. Ajello asked the applicant to update the figures on the comparison sheet.

There were no questions or comments from the public.

MOTION: To continue the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. and Mrs. McTiernan for a detached accessory apartment at 52 Calhoun Street to Monday, June 25, 2007 at 7:30 p.m. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

At 8:17 p.m. Mr. Owen continued the hearing to 7:30 p.m. on 6/25/07 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Parsell/13 Top Pasture Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Owen called the public hearing to order at 8:18 p.m.. Mrs. Friedman read the legal notice published in **Voices** on 5/9 and 5/16/07 and Mr. Owen read the list of documents in the file and the 5/21/07 ZEO Report.

Mr. Parsell presented the floor plans and elevations, no date, no signature and the map, "Proposed Subsurface Sewage Disposal System," by Civil C1, dated 2/9/07.

Mr. Parsell noted the remodeling proposed for his existing house would increase the floor area from 2600 to 3400 sq. ft. He said the 3400 sq. ft. did not include the proposed addition to the garage or the proposed breezeway. The proposed 1200 sq. ft. apartment would have two stories. Mr. Owen noted the proposed additions to the existing dwelling and the proposed apartment would be considered as one application.

It was noted the proposed apartment was clearly subordinate to the main dwelling.

There were no questions or comments from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Parsell for a detached accessory apartment at 13 Top Pasture Road. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

Mr. Owen closed the public hearing at 8:31 p.m.

Revision of the Washington Zoning Regulations/Section 2.3.2.g/ Prohibition of Drive Through Eating and Drinking Establishments

Mr. Owen called the hearing to order at 8:31 p.m. Mrs. Friedman read the legal notice published in **Voices** on 5/9 and 5/16/07. Mr. Owen read the list of documents in the file.

Mrs. Friedman explained the proposed revision was one of many approaches the Commission had considered to regulate eating and drinking establishments. She noted earlier proposals had been pared down on the advice of the Commission's counsel and said this was only the first step in drafting regulations to control these establishments. She read the specific language proposed and explained it would be included in Section 2.3.2.g, which was a list of uses prohibited throughout Town.

Mr. Owen noted the comments received from the surrounding councils of government indicated the proposed revision did not conflict with regulations in adjoining towns.

Mr. Owen explained under the new regulation, the Coffee Express in Marbledale would become a non conforming use.

There were no comments or questions from the public.

MOTION: To close the public hearing to consider revision of the Washington Zoning Regulations: Section 2.3.2.g to prohibit drive through eating and drinking establishments. By Mr. Owen, seconded by Mrs. Friedman, passed 5-0.

Mr. Owen closed the public hearing at 8:39 p.m.

REGULAR MEETING

Mr. Owen called the Regular Meeting to order at 8:39 p.m. and seated Members Abella, Averill, Fitzherbert, Friedman, and Owen.

Consideration of the Minutes

MOTION: To accept the 4/23/07 Regular Meeting minutes as submitted. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

MOTION: To add subsequent business not already posted on the agenda: Other Business/Discussion of Village District regulations. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

New Applications

Tatetuck Farm, LLC./165-171 Sabbaday Lane/First Cut

Mr. Owen read the 5/21/07 ZEO report.

Atty. Federer stated a first cut was proposed because the property had been in its current configuration since 1946. She pointed out the proposed 6.26 acre lot on the map, "Property/Boundary Survey. First Cut," by Mr. Alex, revised to 1/25/07. It was noted the residential density calculations were included on the map.

Mrs. Friedman asked if the deeds had been checked to make sure this qualified as a first cut. Mr. Ajello said this had been done. He also noted the required form had been filled out and there were no conservation easements on the property.

MOTION: To approve the application submitted by Tattatuck Farm, LLC. for a first cut at 165-171 Sabbaday Lane. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

Pending Applications**John Dorr Nature Lab/220 Nettleton Hollow Road/Special Permit: Section 4.4.10/Demolish Lodge, Build Larger Classroom Building, Additions to Dormitory, Etc.**

MOTION: To approve the Special Permit application: Section 4.4.10 submitted by John Dorr Nature Lab to demolish the existing lodge, build a larger classroom building, construct additions to the dormitory, etc. at 220 Nettleton Hollow Road. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

McTiernan/52 Calhoun Street/Special Permit: Section 13.11.3/ Detached Accessory Apartment

The public hearing was continued to 7:30 p.m. on June 25, 2007.

Parsell/13 Top Pasture Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Owen noted for the record that the size and scale of the proposed apartment were not issues in this case; the apartment was clearly subordinate to the primary dwelling in all respects.

MOTION: To approve the Special Permit application: Section 13.11.3 submitted by Mr. Parsell for a detached accessory apartment at 13 Top Pasture Road. By Mr. Owen, seconded by Mr. Abella, and passed 5-0.

Other Business

Preliminary Discussion/Ebner/Mt. Tom Road/Camp Expansion: Mr. Owen read the 5/21/07 ZEO Report. Ms. Ebner-Martin circulated a statement to the Commission and information from the American Camp Assn. She said they had purchased the adjoining 52 acres and hoped to expand the camp to this property and expand to a year round operation. Mr. Ajello noted camps are not a permitted use in the R-1 District

and so expansion to the newly purchased lot would not be possible under the current Regulations. Ms. Ebner-Martin noted that the existing camp did not qualify as a school under Zoning's definition of school because it is not certified by the state Dept. of Education. Mrs. Hill suggested as a first step that the property owners combine the two lots. When Ms. Ebner-Martin said she planned to build a house and reside on the new property, Mr. Ajello suggested a lot line revision where just enough of the parcel needed to support a dwelling unit per soil based zoning would remain as a separate lot with the remainder joined to the existing camp property. Mr. Ajello explained the Ebners could not apply for a variance to expand the camp because there is no hardship. And he noted the Commission might not want to consider adding camps to the uses permitted in the R-1 District as that would then apply to the entire District and not just this property. It was thought then that perhaps the Commission could consider a revision of the Regs similar to the recent amendment for existing golf courses in the R-1 District, and revise the Regs to permit the expansion of existing non conforming camp use by Special Permit. There was general agreement that this would be the most efficient way to proceed. Mr. Owen recommended that the property owners consult with Mrs. Hill and Mr. Ajello about how to petition to amend the Regulations.

Wright/14 Kinney Hill Road/Renewal of Special Permit: Section 13.16/Shop and Storage Use by Contractors and Building

Tradesmen: It was noted this was a two year permit that may be renewed without a public hearing. Mr. Ajello noted that in previous years complaints had been received about on street parking, but that the Wrights had moved employee parking to an area behind the barn. Mr. Owen read the 5/21/07 ZEO report. There were no questions or comments from the commissioners.

MOTION: To approve a two year extension of the Special Permit: Section 13.16 issued to Mr. Wright for shop and storage use by contractors and building tradesmen at 14 Kinney Hill Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Myfield, LLC /7 Mygatt Road/Discussion Re: Comparability

MOTION: To enter executive session at 9:05 p.m. to discuss Myfield, LLC /7 Mygatt Road/ Comparability. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

MOTION: To end executive session at 9:40 p.m. By Mr. Fitzpatrick, seconded by Mr. Averill, and passed 5-0.

Revision of the Zoning Regulations/Section 2.3.2.g/Prohibition of Drive Through Eating and Drinking Establishments

MOTION: To approve the revision of the Washington Zoning Regulations to add Section 2.3.2.g: prohibition of drive through eating and drinking establishments. By Mrs. Friedman, seconded by Mr. Averill, and passed 5-0.

Communications

Mr. Owen noted the Ct. Siting Council would conduct a public hearing on the Verizon cell tower application for two Marbledale locations at 3:00 p.m. and 7:00 p.m. in Bryan Memorial Town Hall on June 21, 2007.

Privilege of the Floor

Atty. Ebersol addressed the Commission about Myfield, LLC. He noted he had written to the Commission's counsel, Atty. Zizka, regarding the issue of comparability but had received no official response from the Commission. He noted 13 units had been approved that basically would look the same from the outside, but that could be customized by their owners on the inside. Units #5 and #6, he said, had been built; Unit #5 a standard unit and Unit #6 customized to illustrate what could be done with a unit. He said the owners had not realize the Commission wanted all of the units to be identical, noting at the March 2006 session of the public hearing, the Commission had suggested that when the units were done the architect certify they were of comparable size and workmanship. He submitted a copy of the March 2006 minutes. He also noted that Commission had asked that the units be comparable, not identical, and so it had been understood that customizing would be OK. He pointed out the fourth condition of approval, which stated that any design changes must come to the Commission for approval, and apologized if the Commission thought this was the type of design change that required further approval. He also stated the owners did not want to prolong this matter and would work with the Commission to resolve it.

Enforcement

Moore/25 Litchfield Turnpike: Mr. Ajello reported the Inland Wetlands Commission was making progress in resolving the violations on this property. He said Mr. Moore would soon apply for a zoning permit to bring two existing buildings into compliance with the Regs and for a Special Permit for Shop and Storage Use by Contractors and Building Tradesmen.

Other Business

Village District Regulations: Mrs. Hill circulated draft regulations from Kent and the 4/25/07 draft regs by Mr. Boling, "Town of Washington Possible Village District Overlay Zone." Mrs. Friedman noted Atty. Zizka had suggested that enacting Village District regulations was a way to control the type of development done in the village centers. Mr. Owen noted the places in Town that are the most vulnerable seem to be the most difficult locations in which to control development. Mrs. Friedman was not sure whether Village District regs would be effective in Marbledale. Mrs. Hill thought they would work well in Marbledale if a description of the district such as the descriptions in the Kent draft were used as the basis for the standards that would be used to evaluate applications. It was also noted that Village District regs would add a layer of bureaucracy to the application process. Mrs. Hill noted, however, this would not mean more work for the Zoning Commission since an architectural review board or consultant would be doing the bulk of the added review. The commissioners were asked to study the drafts so the Village District concept could be discussed at the next meeting.

Privilege of the Floor

Mr. Plourde complained to the Commission that he was being singled out for several enforcement matters. He asked that the Regulations be administered fairly and equally. Mr. Owen asked him to put his complaints in writing and in the meantime to comply with the Regulations.

Mr. Owen adjourned the meeting at 10:23 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator