

May 23, 2005

MEMBERS PRESENT: Mr. Fitzherbert, Mrs. Friedman, Mr. Martin, Ms. Page

MEMBER ABSENT: Mr. Owen

ALTERNATES PRESENT: Mr. Abella, Mr. Brinton, Mr. Shapiro

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Meeker, Mr. Shayne, Mr. Charles, Mr. Sears, Mr. Davenport, Mr. Sunshine, Mr. Collins, Mr. DePecol, Mr. Finkler

PUBLIC HEARINGS

Mr. Martin noted the following Members would be seated for all of the following public hearings; Mr. Fitzherbert, Mrs. Friedman, Mr. Martin, and Ms. Page and Alternate Shapiro for Mr. Owen.

Meeker/269 New Milford Turnpike/Request to Amend 11/03 Special Permit: Section 9.4.1.a/Outside Storage

Mr. Martin called the public hearing to order at 7:30 p.m. Ms. Page read the legal notice published in **Voices** on 5/10 and 5/18/05.

Mr. Martin listed the documents in the file and read 1) the 8/23/04 letter from Mr. Meeker, which provided information on construction materials, 2) the 3/17/05 letter from Mr. Etherington, Fire Marshal, and 3) the 5/23/05 ZEO Report.

The site plan was reviewed and it was noted the proposed storage structure would be placed 107 feet from the East Aspetuck River.

Mrs. Friedman thought the proposed 12' X 24' structure with 5' X 5' containment area was larger than needed for the storage required. She also thought it was an unattractive structure considering there were residences in the area.

Mr. Fitzherbert voiced his concern about safety. Mr. Meeker said there was a zip front where he could install a lock and there would be anchors to fasten down the sides. Mr. Brinton, member of the Fire Department, stated it was safer for the neighborhood to have the chemicals isolated in a separate structure and recommended Mr. Meeker provide the Fire Department with a list of the chemicals on site so it could have a plan ready in case of fire.

Mr. Martin asked what chemicals would be stored in the structure, noting the 8/23/04 letter mentioned only chlorine. Mr. Meeker said all his chemicals would be stored there as the Fire Marshal does not want them inside the main building.

Mrs. Bachelier, adjoining property owner, voiced her concerns about safety hazards; fire, explosions, damage to her water supply, pollution of the river, etc.

Mr. Finkler, Wheaton Road resident, said there is a tremendous amount of heat released when chemicals come into contact with each other and asked whether the storage structure was permanent. Mr. Meeker stated it was a tubular structure with a resistant, heavy duty 18 mil skin. Mr. Finkler noted chlorine is deadly and could harm the East Aspetuck River and the fish in it. Mr. Martin noted the Inland Wetlands had approved the application and so had determined the containment safeguards proposed were sufficient.

Mrs. Buziak, Marbledale resident, complained about the toxic chemicals to be stored and the aesthetics of the plastic structure.

Mr. Meeker said the structure would be fully contained with a lock mechanism. Mrs. Buziak said a 24 ft. plastic building was not in keeping with the neighborhood. She also thought it would be dangerous to store the chemicals outside in the heat and recommended a structure with better ventilation.

Mr. Martin recommended the Commission conduct a site inspection. It was scheduled for 6:00 p.m. on Thursday, June 2, 2005. He asked that the footprint of the structure be staked and noted the hearing would be continued to the fourth Monday in June.

Mr. Shapiro asked why the structure could not be turned 90 degrees so it would be less visible behind the main building. Mr. Meeker responded he was setting it on an existing patio.

Mrs. Buziak and Mr. Bachelier expressed their concern about fire and fumes and asked why this matter had not been addressed sooner. Mr. Brinton noted this was not the only or the largest store of chemicals in Town and again explained the Fire Department is prepared to put out chemical fires and would have a predetermined plan of action that would take the neighborhood into account in case of fire. Mr. Bachelier wanted to know what this plan would be before the Commission acted on the application. Mr. Fitzherbert said the Commission had previously discussed storage of the chemicals, but noted the Fire Marshal has the authority to require whatever measures he deems necessary to protect the neighborhood. Mr. Brinton will contact Mr. Etherington and ask him to attend the next meeting.

Another resident worried that Mr. Meeker would have no control over his employees who might store additional chemicals in the structure.

Mrs. Bachelier submitted safety information about pool chemicals for the record.

MOTION: To continue the public hearing to consider

Mr. Meeker's request to revise his 11/03

Special Permit: Section 9.4.1.a for Meeker/

269 New Milford Turnpike/Outside Storage to

the site inspection at 269 New Milford

Turnpike scheduled for 6:00 p.m. on 6/2/05.

By Mrs. Friedman, seconded by Ms. Page, and

passed 5-0.

At 8:09 p.m. Mr. Martin continued the public hearing to the 6/2/05 site inspection.

Town of Washington/10 Blackville Road/Special Permit: Section 4.4.9/Town Facility/Garage, Outside Storage, Extend Driveway

Mr. Martin read the 5/23/05 letter of withdrawal from Mr. Sears, First Selectman.

Shayne-Sunshine/27 Turner Road/Special Permit: Section 13.11/ Detached Accessory Apartment

Mr. Martin called the public hearing to order at 8:11 p.m. Ms. Page read the legal notice published in **Voices** on 5/10 and 5/18/05.

Mr. Martin noted the application was for a 1199 sq. ft. detached accessory apartment with attic. He reviewed the documents in the file and noted the applicant had submitted a statement regarding how the proposed apartment met each of the criteria in Section 13.11. He read the 5/23/05 ZEO Report, which recommended approval with the conditions that the upstairs attic area remain unfinished and that condition be placed in all Land Use files. Mr. Shayne and Mr. Sunshine had already submitted a written statement agreeing to leave this space unfinished. Mr. Shayne explained the building would be a pre fab replica of an 18th century cape, which typically has a bedroom on the second floor. Use of the entire second floor would bring the apartment over the maximum 1200 sq. ft. allowed, so an attic storage space was proposed. It was noted the apartment was sized well below the sq. footage of the primary structure, which was approximately 6000 sq. ft.

Mrs. Friedman pointed out that in the past the Commission had excluded unused sq. footage only for apartments located in existing buildings. She objected to doing so in this case because a new building was proposed and the Commission would have no control over future owners. Mr. Shayne said he would file the condition of approval on the Town Land Records. Mr. Martin asked since the apartment was proposed in a new building, why the new building would be larger than the maximum size of the apartment permitted. Mr. Shayne said the 18th century design was in keeping with the area and had been selected for aesthetic reasons. Mr. Sears noted the Regulations do not limit the size of the accessory building in which an apartment is located.

Possible conditions of approval were briefly discussed.

No one from the public spoke for or against the application.

MOTION: To close the public hearing to consider

the Special Permit application: Section

13.11 submitted by Mr. Shayne and Mr.

Sunshine for a detached accessory

apartment at 27 Turner Road. By Mr. Shapiro,
seconded by Mr. Fitzherbert, and passed 5-0.

Mr. Martin closed the public hearing at 8:27 p.m.

Attardi/75 West Church Hill Road/Special Permit: Section 13.11/ Detached Accessory Apartment

Mr. Martin called the public hearing to order at 8:28 p.m. Ms. Page read the legal notice published in **Voices** on 5/10 and 5/18/05.

Mr. Martin noted an 1150 sq. ft. detached accessory apartment is proposed, noted all the documents in the file, and read the 5/23/05 ZEO Report.

Mr. Gugel, representative for the property owner, advised the Commission the notices to adjoining owners had not been mailed as required and asked for a conditional approval pending submission of letters of consent from all adjoining property owners. He said nothing would be built until all approvals were obtained. Mr. Martin explained the notice requirement could not be varied because the purpose was to give neighbors the opportunity to comment on the proposal. He asked Mr. Gugel to notify the adjoining property owners and said the hearing would be continued to June 27, 2005.

MOTION: To continue the public hearing to consider

the Special Permit application: Section

13.11 submitted by Mrs. Attardi for a

detached accessory apartment at 75 West

Church Hill Road to June 27, 2005 in the

Land Use Meeting Room, Bryan Memorial Town

Hall immediately following the Meeker public

hearing. By Mrs. Friedman, seconded by Mr.

Shapiro, and passed 5-0.

At 8:34 p.m. Mr. Martin continued the public hearing to June 27, 2005.

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

Mr. Martin called the meeting to order at 8:35 p.m. and seated Members Fitzherbert, Friedman, Martin, and Page and Alternate Shapiro for Mr. Owen.

Consideration of the Minutes

The 4/25/05 Regular Meeting minutes were accepted as corrected. On page 5 Mr. Carey's statement should be changed to state he wanted to avoid development that would require a sewage treatment plant for the Depot.

MOTION: To accept the 4/25/05 Regular Meeting

minutes as amended. By Mrs. Friedman,

seconded by Mr. Shapiro, and passed 5-0.

Pending Applications

Meeker/269 New Milford Turnpike/Request to Amend 11/03 Special Permit: Section 9.4.1.a/Outside Storage: It was noted a site inspection would be conducted at 6:00 p.m. on 6/2/05 and the hearing had been continued to 6/27/05.

Shayne-Sunshine/27 Turner Road/Special Permit: Section 13.11/ Detached Accessory Apartment: The proposed floor plan was reviewed and it was noted the only issue was the total size of the apartment. Conditions to ensure the attic space could not be used to increase the size of the apartment were discussed. Mrs. Friedman thought approval would set a bad precedent. Again, it was noted that the Regulations do not limit the size of the accessory building in which the accessory apartment is located.

MOTION: To approve the Special Permit application:

Section 13.11 submitted by Mr. Shayne and

Mr. Sunshine for a detached accessory

Apartment at 27 Turner Road subject to the

following conditions:

1. the apartment living space may not

exceed 1200 sq. ft.

2. any area in excess of 1200 sq. ft. on the upper level shall remain unfinished, unlivable, unheated, and without plumbing, bath, and kitchen,
3. any window opening in the above unfinished area must be less than 22 inches in any dimension.

By Mr. Shapiro, seconded by Ms. Page, and passed 4-1.

Mrs. Friedman voted No because she thought it set a bad precedent to permit the construction of a new accessory building that was larger than the 1200 sq. ft. apartment it would house.

Attardi/75 West Church Hill Road/Special Permit: Section 13.11/ Detached Accessory Apartment: The public hearing was continued to 6/27/05.

New Application

Frisbee Farm Estates, LLC./61 Frisbee Road/First Cut

The map, "Proposed First Cut Map," by Mr. Howland, dated 5/19/05 was reviewed and Mr. Martin read the 5/23/05 ZEO Report. Mr. DePecol, property owner, explained the proposed cut and pointed out the location of the property, soil types, and proposed house and driveway sites. Mr. Ajello said he had checked with the Assessor's Office to be certain this was a first cut and had reviewed the driveway profile and had determined the driveway met the Town's requirements. Mr. Martin asked if the residential density calculations had been correctly done. Mr. Ajello said they had.

Mr. Martin recommended approval of the application with the condition that the Selectmen's Office approve the driveway cut.

MOTION: To approve the application submitted by

Frisbee Farm Estates, LLC. for a first cut

at 61 Frisbee Road with the stipulation that

the Selectmen's Office approve the driveway

cut. By Ms. Page, seconded by Mr. Shapiro,

and passed 5-0.

Other Business

Revision of the Zoning Regulations/Method of Measuring Height/ Section 11.7: Mr. Martin noted the proposed revision would require that structures be measured from the original undisturbed grade in most cases, not the finished grade as is currently done. This would prevent filling to get a taller structure. Two changes from the draft discussed at the last meeting were; 1) a statement that in cases where the finished grade will be lower than the original grade, the measurement will be made from the finished grade and 2) in Section 11.7.2.3 the method of establishing the average pre existing grade by locating and averaging the absolute highest and lowest points of elevation within the footprint was added so the points from which the measurements would be taken would not be arbitrary. Atty. Zizka recommended this change. Mrs. Frank, Conservation Commission member, said she had reviewed the changes and thought they were OK. It was suggested that "finished grade" be defined in Section 21. Mr. Martin said that could be accomplished within the public hearing. The public hearing to consider the revisions is scheduled for June 27, 2005 at 7:30 p.m.

Revision of the Zoning Regulations/Viewshed Protection: The proposed language from the Conservation Commission, which was based on the discussion at Zoning's March 2005 meeting, had been circulated prior to the meeting. Several of the Zoning Commissioners thought it was unclear and too technical. It was the consensus the proposed 850 elevation should be increased to 900 or 950 because using the 850 contour would include too much land throughout Town. Mrs. Frank noted the language addressed sensitive properties with both high elevations and steep slopes and added the site plan requirement could be waived by the Commission if it found a property was not sensitive. Mr. Martin noted the Zoning Commission had agreed with the concept of viewshed protection based on the combination of elevation and slope, and appointed Mr. Fitzherbert and Mr. Ajello to work with Mr. Sonders to draft more practical language before sending the revisions to Atty. Zizka for his review.

Multi Family Housing: Mr. Shapiro stated he supported Zoning's proposal to permit multi family housing in the business districts, except for Woodville, within 1000 feet of the Marbledale Business District, and on properties with existing institutional uses throughout Town subject to suitable criteria to be drafted by the Commission for the following reasons: 1) The need for housing alternatives had been demonstrated. Both the 2002 Housing Study and the 2003 Plan of Conservation and Development recommended the Zoning Regulations be revised to allow housing options; not just affordable housing, but moderate housing as well. 2) Although developers could still apply under the State Affordable Appeals Act, the implementation of local zoning regulations could provide inducements to developers to apply under

the Town regulations. This would enable the Zoning Commission to have more control over these projects. 3) The 50 unit cumulative cap proposed would be a manageable first step and in keeping with how the Commission had handled multi family housing in the past. Mr. Martin referred to Mr. Shapiro's 5/19/05 memorandum re: Affordable Housing Appeal Statistics, noting many typical local concerns such as density, preservation of neighborhood character, impact on aesthetics, schools, town finances, traffic, etc., and violation of local zoning regulations are not considered by the courts to be valid reasons for denial of an affordable housing project. Mr. Shapiro said the state considers public safety to be a valid reason for denial. It was noted Mr. Shapiro obtained his information from the State Office of Legislative Research and that it was based on court cases since 1991. Mr. Brinton also supported the Commission's proposal so the Commission could have some control over multi family housing applications. Mr. Martin agreed the implementation of local zoning regulations would help to ensure small scale development with good site plans to protect neighborhood character. Ms. Page voiced her support of the proposal and asked whether the Commission had decided on the definite boundaries within which multi family housing would be permitted. The Commission had not yet finalized the boundaries. Mrs. Friedman thought any proposed multi family zoning regulations should not include a requirement that each development include a percentage of affordable housing units because 1) it would keep down the size of proposed projects, 2) it would be less confusing, and 3) it would encourage developers to apply to the Zoning Commission rather than go through the state process. She also suggested the number of units in any project should be limited as well as establishing an overall cumulative cap of 50 units. Mr. Fitzherbert was also in favor of the Zoning proposal. He said he would be interested in the recommendations of the upcoming Depot Business District study and asked whether there was a legal way to assess a fee in lieu of affordable units that could be deposited in a Town fund. Mr. Martin will investigate. Mr. Abella did not support permitting multifamily units within 1000 feet of the Marbledale Business District because he said Marbledale already has the largest concentration of condo units in Town. Based on the public comments made at the informational meeting on 4/25/05, Mr. Martin recommended, and the Commission unanimously agreed, to hold off on allowing multi family units within 1000 feet of the Marbledale District until after the Depot study is completed. Both districts could then be considered in a comprehensive manner at that time. There were several comments and questions from the public:

- Mrs. Frank asked if there was a height restriction on multi family dwelling units. Mr. Martin said there would be, but the Commission had not yet begun to draft specific special permit criteria.
- Mrs. Bachelier asked what percentage of the Town's current housing was affordable. Mr. Shapiro said approximately 1.7% considering only those units with 40 year deed restrictions as required per state statute.
- A woman asked if traffic safety would be grounds to deny an affordable housing project. She cited unsafe traffic conditions on Scofield Hill Road. Mr. Martin stated safety and Health concerns would be valid grounds for denial. Mr. Shapiro cautioned, however, that reasonable measures to improve traffic safety such as stop lights and improvement of sight lines must be considered.
- Mr. Finkler noted most people had moved to Washington for peace and quiet and the Commission's idea to attract businesses, restore life to the village centers, and to "reorganize society to conform to your notions" would not work. He stated he did not support the changes to the Marbledale Business District recommended by the POD. Mr. Martin noted the Zoning Commission was considering only multi family housing at this time. Mr. Finkler said the changes proposed to the Marbledale Business District would decrease property values and that Wheaton Road residents supported his point of view. Mr. Martin reminded him the Commission had just agreed not to permit multi family housing within 1000 feet of the District boundaries, but noted that would not affect the Myfield application at 7 Mygatt Road, which would fall under the state's Appeals Act.

Revision of the Zoning Regulations/Section 16/Signs: Mrs. Friedman noted Draft #6 was based on the discussion at the 3/05 meeting. She said she considered enforcement to be key as there was no point in amending the Regulations if they would not be enforced. Mr. Sears noted there had been minimal input from the business community despite the many attempts of the Zoning Commission to gain such input. Mrs. Hill advised him that a letter had been sent to all property owners in the business districts, but none had responded. Mrs. Friedman will attend a future meeting of the Washington Business Assoc. along with Mr. Sears to discuss the proposed revisions and get feedback from the business community.

Enforcement

Signs: Two significant sign violations were discussed.

1. Personal Best/Bee Brook Road: This business has five signs, one in the state right of way. Mr. Ajello said he had already contacted the owner several times and had sent a notice of violation. Mr. Martin said if the illegal signs were not taken down by the next meeting, the Commission would begin enforcement action.
2. Internally illuminated Klemm Real Estate sign at the corner of East Shore Road and New Preston Hill: Mr. Ajello said he had contacted Mr. Klemm who agreed to turn off the sign.

Communications

Mr. Martin noted Mr. Sears had sent a letter dated 5/6/05 regarding the proposed revisions to Section 12 of the Zoning Regulations, which would enable implementation of the Lake Waramaug Agreement. Input was also received from Mr. McGowan and Mr. McGuinness. A revised draft will be discussed at the next meeting.

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

Mr. Martin adjourned the meeting at 10:05 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator