

## June 22, 2009

**Present:** David Owen, Valerie Friedman, Gary Fitzherbert, Lou Abella

**Alternates Present:** A.J. DuBois, Andy Shapiro, Harry Wyant

**Absent:** Ralph Averill

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

**Others Present:** Michael Boe, Architect, Jim Dobson, Brian Neff, Carol & John Harrison, Paul Szymanski, Engineer, Residents

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

### **PUBLIC HEARING(S)**

Seated: Mr. Owen, Ms. Friedman, Mr. Fitzherbert, Mr. Abella, Mr. Shapiro, Alt.

Harrison/19 Kielwasser Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment:

Ms. Friedman read the legal notice published in Voices on 6/10/09 and 6/17/09.

Mr. Owen read the list of documents on file for this application. Mr. Brian Neff, Engineer was present to represent this application. Mr. Neff and the commissioners examined the Proposed Site Plan, titled Addition to the Garage/Guest House, at 19 Kielwasser Road, dated 4/11/09 by Brian Neff Engineer. Mr. Owen asked if there were any questions. The Zoning Commission looked at the floor plans and elevations, titled Proposed Residential Alterations for Carol and John Harrison, sheet A1.03, dated 5/5/09 and sheet A2.02 dated 5/7/09, by McIver-Morgan. There were no questions or comments from the public regarding this application.

Motion: to close the Public Hearing to consider the Special Permit Application submitted by Harrison/ 19 Kielwasser Road/ Section 13.11.3/Detached Accessory Apartment, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

### **REGULAR MEETING**

#### **Regular Business**

Mr. Owen called the Regular Meeting to order at 7:45 pm.

Seated: Mr. Owen, Ms. Friedman, Mr. Fitzherbert, Mr. Abella, Mr. Shapiro, Alt

#### **Consideration of the Minutes**

Motion: to accept the Zoning Meeting Minutes of May 18, 2009 as submitted, by Mr. Owen, seconded by Mr. Shapiro, by 5-0 vote.

**Pending Application(s)**

Harrison/19 Kielwasser Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

There were no questions or comments regarding this application.

Motion: to approve the Special Permit Application: Section 13.11.3 submitted by Harrison for Detached Accessory Apartment at 19 Kielwasser Road, by Mr. Owen, seconded by Mr. Shapiro, by 5-0 vote.

**New Application(s)**

10 Main, LLC./10 Main Street/Special Permit: 7.5 and 7.6: Increase in Maximum Permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp:

Ms. Hill reported the application was complete.

Motion: to schedule a Public Hearing on June 27, 2009 to consider the Special Permit application: submitted by 10 Main, LLC/10 Main Street/Special Permit: Section(s) 7.5 & 7.6 /Increase in Maximum permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

**Other Business**

Section 12.14.2/Location of Pool Equipment/Discussion with Mr. Dobson:

Mr. Jim Dobson of Dobson Pools was present to discuss section 12.14.2 of the Zoning Regulations. Mr. Dobson explained that the only pool equipment that makes noise is the swimming pool pump. He suggested that the regulation should be revised to state that only the swimming pool pump be required to be situated within 50 feet of the swimming pool served and the other non noise generating equipment could be placed where the owner wanted it. The Zoning Commission discussed the possible revisions to the language of Section 12.14.2. The commission agreed to reword the language and to schedule a public hearing at the August meeting.

Possible Revision of the Zoning Regulations: Addition of Section 17.5.A.3/Special Exceptions for Section 12.1 under specific circumstances:

The Zoning Commission discussed the language that was approved at the June 18, 2009 ZBA Meeting for section 17.5.A.3, which differed from the Zoning Commission's proposal. Mr. Shapiro volunteered to revise the language to make the regulation more consistent. This revision will go to the ZBA Meeting of July 16, 2009 and they will be asked to provide a written explanation of any changes they propose.

Section 4.4.17: Accessory Structures Used to Operate or Maintain a Pre Existing Golf Course:

It was noted that although section 4.4.17 permits accessory structures used to operate or maintain a pre existing golf course by Special Permit in the R-1 district, this provision had not been implemented for the Lake Waramaug Residential District. This means the Lake Waramaug Country Club would be required to apply for a variance rather than a Special Permit for any structure it might propose. It was the consensus to add section 6.4.13, using the existing language in 4.4.17, to the uses permitted by Special Permit in the Lake Waramaug District. A public hearing was scheduled for the August meeting.

Motion: to add discussion of Density Regulations and Easements to the agenda, by Mr. Owen, seconded by Ms. Friedman, by 5-0 vote.

**Discussion/ Section 11.2.1 Density Regulations:**

Paul Szymanski, Engineer, distributed a copy of Section 11.2.1 of the Town of Washington's Zoning Regulations. He stated he would like to discuss the proper interpretation of the Zoning Regulation 11.2 Density Regulations. The commissioners read the letter from Attorney Mike Zizka, dated June 15, 2009 re: Density Regulations. Mr. Szymanski asked for clarification of the regulation. He asked if a property owner eases a portion of his property for conservation and ends up with less than 1 density unit, would this limit the property owner's ability to add on to the house in the future. He stated he would most likely not encourage a client to ease that amount of land if it were to put the property at less than 1 density unit. Mr. Owen stated the owner could not receive the tax benefit of the conservation easement if he still had rights to develop the land. There was a discussion regarding tax benefits of conservation easements. Mr. Owen stated that if the property owner was willing to give the land up, and it becomes less than one density unit, then he is giving up the right to develop his parcel any further. Mr. Szymanski asked if the Zoning Commission would entertain a clarification of section 11.2.1 Density Regulations and how they relate to Conservation Easements. Mr. Owen recommended the commissioners continue to consider Atty. Zizka's opinion and thought the commission might want to consult with Steep Rock.

**Privilege of the Floor** No one from the public was present at this time.

**Communications**

The Zoning Commission discussed the Review of Zoning Regulations section of Ms. Hill's Administrative Report dated 6/22/09 (on file in the Land Use Office). Mr. Owen recommended the commission look for inconsistencies and problems and focus on clarity. Ms. Hill stated a consultant would be helpful in finding inconsistencies and how to solve them. The commissioners and Ms. Hill discussed the possible benefits of hiring a consultant.

**Enforcement** The Zoning Commission read the ZEO Report dated June 22, 2009.

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

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

**Adjournment**

Motion: to adjourn at 8:50 pm by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

Mr. Owen adjourned the meeting.

FILED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk