

June 23, 2008

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

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATES PRESENT: Mr. DuBois, Mr. Shapiro

ALTERNATE ABSENT: Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr./Mrs. Frank, Mr. Klauer, Atty. Fisher, Mr. Szymanski, Atty. Strub, Mr./Mrs. Federer, Mr. J. Picton, Mr. M. Picton, Mrs. Solomon, Mr. Hinkel, Mr. Parker, Mr. Ullram, Mr. Solley, Mr. Hunt, Mrs. Jahnke, Mr. Talbot, Mrs. Corrigan, Mr. Lines, Mr. Owens, Mrs. Greene, Residents, Press

PUBLIC HEARINGS

Petition to Amend the Zoning Regulations/Sections 11.5.1, 11.5.2, and 21.1.37: Lot Coverage and to Create New Section 11.5.3: Maximum Lot Coverage for Pervious Surfaces and Add a New Definition in Section 21 for "Pervious Traveled Surfaces"/Con't.

Mr. Owen reconvened the public hearing at 7:32 p.m. and seated Members Abella, Averill, Friedman, and Owen and Alternate Shapiro for Mr. Fitzherbert.

Mr. Owen read the list of documents that had been submitted since the last session of the public hearing. He then read the 6/5/08 Planning Commission minutes, which raised many concerns and recommended the petition be denied subject to further investigation by the Zoning Commission. Mrs. Friedman read the 6/11/08 Inland Wetlands Commission minutes, which also raised many questions and concerns. Mr. Owen then read the last sentence from the 6/2/08 letter from Mr. Picton in opposition to the petition.

No one was present to speak on behalf of the petition.

Mrs. Friedman said she had grave concerns about the proposal. She thought there could be maintenance problems with pervious surfaces and that many aspects of the proposed revisions were prone to problems. She noted that Mr. McGowan of the Lake Waramaug Task Force had made a thoughtful presentation at the last meeting. She asked what would happen when a pervious surfaced driveway was paved over after a larger structure had been built on the property as a result of the lot coverage incentive. She favored following the recommendation of the Planning Commission to deny the petition, but added that if the installation of pervious surfaces made sense, the Zoning Commission should consider making them a requirement in sensitive areas without a lot coverage incentive.

Mr. Ajello said there was a lot that was not known about pervious surfaces, but urged the Commission to keep an open mind about this new technology.

Mr. Averill was opposed to “trading off” pervious surfaces for an increase in lot coverage. He stated that if lot coverage increased, it would visually impact the Town. He said he would encourage the installation of pervious surfaces, but without the lot coverage incentive.

Mr. Abella agreed with both Mrs. Friedman and Mr. Averill. He thought the current 15% maximum lot coverage was more than sufficient and that the incentive proposed would be difficult to control.

Mr. Shapiro said the petition did not take into account adequate maintenance, installation, and enforcement standards. He also agreed with Mrs. Friedman’s statements.

Mr. DuBois agreed with Mrs. Friedman.

Mr. Owen was also concerned about the maintenance of the pervious surfaces and what would happen if they were paved over after a larger structure had been built. He didn’t know how the Commission would be made aware that this had happened. He also said that he did not know enough about the specific situations where pervious surfaces would be desirable due to their permeability.

Mr. Ajello noted the Regulations already permit pervious surfaced walkways and do not include them in the lot coverage calculations.

Mr. Frank, president of the Lake Waramaug Association, encouraged the Commission to continue its study of pervious surfaces because they offer a potential improvement around the lake.

Mr. Owen urged the Lake Waramaug Assoc. to continue its study, too, as the Commission often looks for guidance from the Association regarding lake issues.

There was no further discussion.

MOTION: To close the Public Hearing to consider the petition submitted by Atty. Kelly and Kent Greenhouse for revisions to the Zoning Regulations concerning lot coverage and pervious surfaces. By Mrs. Friedman, seconded by Mr. Shapiro, and passed 5-0.

Mr. Owen closed the public hearing at 7:47 p.m.

Bixler/49 Ferry Bridge Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Owen called the public hearing to order at 7:48 p.m. Mrs. Friedman read the legal notice published in Voices on 6/11 and 6/18/08. Mr. Owen read the 6/23/08 ZEO Report and noted the applicant had withdrawn the application.

MOTION: To close the Public Hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Bixler for a detached accessory apartment at 49 Ferry Bridge Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Mr. Owen closed the public hearing at 7:49 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

Mr. Owen called the Meeting to order at 7:49 p.m.

Consideration of the Minutes

MOTION: To accept the May 19, 2008 Public Hearing – Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0

Pending Application

Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Section 13.9, 4.4.1/Inn: Mr. Owen read the 6/23/08 ZEO Report.

MOTION: To schedule a Public Hearing to consider the Special Permit application: Sections 4.4.1 and 13.9 submitted by Wykeham Rise, LLC. for an inn at 101 Wykeham Road on Monday, July 28, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Mr. Szymanski submitted a letter dated 6/23/08 requesting a 6 day extension of the time period in which to commence the public hearing.

New Applications

Nichols Hill Group, LLC./6 Bee Brook Road/Section 8.3.9 and Special Permit: Sections 8.5 and 8.6/Office Expansion and Renovation of Existing Commercial Building: Mr. Hinkel, architect, represented the applicant. Mr. Owen read the 6/23/08 ZEO Report, which noted that Health approval was expected in July and that the applicant had requested that the public hearing be scheduled for July 28. Mr. Hinkel presented the plans, “Washington Mews,” 7 pp., by Hinkel Design Group, LLC., dated 6/20/08. Preliminary elevations and floor plans and the proposed site plan were included. Mr. Hinkel also circulated photos of the existing building. He noted the new site plan would reduce the building’s encroachment into the side yard setback and the proposed work would improve both the building’s appearance and functionality. He said he would have renderings of the building ready for the public hearing.

MOTION: To schedule a Public Hearing to consider the application under Section 8.3.9 and Special Permit: Sections 8.5 and 8.6 submitted by Nichols Hill Group, LLC. for office expansion and renovations to the existing commercial building at 6 Bee Brook Road on Monday, July 28, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

MOTION: To add the following subsequent business to the Agenda: Hedley/214 Nettleton Hollow Road/ Special Permit: Section 13.11/Detached Accessory Apartment. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Hedley/214 Nettleton Hollow Road/Special Permit: Section 13.11/ Detached Accessory Apartment: Mr. Owen read the 6/23/08 ZEO Report. Mr. Picton, contractor, stated the existing barn has an exercise room and bedroom and the property owner proposes to add a kitchenette to convert the finished space to an apartment. Mrs. Friedman asked if there was another detached apartment on the property. Mr. Picton said there was not.

MOTION: To schedule a Public Hearing to consider the Special Permit application: Section 13.11 submitted by Mrs. Hedley for a detached accessory apartment at 214 Nettleton Hollow Road on Monday, July 28, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Other Business

Revision of the Zoning Regulations/Section 13.9: Tourist Homes and Inns: Mr. Owen noted the public hearing had been closed in May, but a vote had not been taken at that time so that Atty. Zizka could be consulted about the proper wording for the motion. He read the text of the proposed revision that would be voted on by the Commission. It clearly stated that inns and tourist homes shall be required to have frontage on a state highway. He reviewed the recent history of this matter and read an excerpt from the October 2007 Zoning minutes. He said because the commissioners had disagreed about the interpretation of the current language in Section 13.9, he had consulted with Atty. Zizka who had agreed with him that, as written, the regulation does not require inns and tourist homes to have frontage on a state highway. Mr. Owen noted that all of the commissioners had agreed the existing regulation was poorly written and so had considered various revisions of this section. However, the only revision the majority had agreed upon was the current proposal. A public hearing had been conducted and closed in May and no further comments from the public could be heard. Mr. Owen explained that the application for an inn submitted by Wykeham Rise, LLC. had been submitted at the May meeting under the current Section 13.9, and it would continue to be governed by the existing language whether or not the proposed revision was approved. If the proposed revision was approved, he said, it would affect only future applications. He noted that at the upcoming Zoning public hearing to consider the Wykeham Rise, LLC. application, the Commission would still face the task of interpreting how the current regulation applies to that application. At that hearing, he explained, the Zoning Commission would hear many arguments regarding the interpretation of the current Section 13.19. If after considering them all, the Commission decides that the existing regulation prohibits inns on lots that don't have 500 feet of frontage on a state road, the application would end there. If the Commission decides that the regulation does not prohibit such inns, consideration of the application will continue under the Special Permit section, 13.1, Section 14, and all other pertinent regulations. Regarding the proper wording of the motion to approve or deny the proposed revision, Mr. Owen reported that Atty. Zizka said it did not matter what term; amendment, revision, clarification, etc., was used to describe the change or which of the terms had been used in the various notices and discussions. Atty. Zizka said the wording of the proposed revision was clear and if adopted, its meaning would be clear. He reminded those present that a vote to approve the revision would not retroactively change the meaning of the existing regulation. Mrs. Friedman read the proposed revision with the minor changes in wording that had been agreed upon at the last meeting.

MOTION: To approve the proposed revision of Section 13.9 regarding Tourist Homes and Inns. By Mrs. Friedman, seconded by Mr. Shapiro, and passed 4-1. Mr. Owen voted No because he was not convinced that a requirement for frontage on a state highway for inns is in the best interests of the Town or that making such a distinction is a good way to control the intensity of any use, because inns would be the only use permitted in the Regulations for which frontage on a state highway is required, and because he believed the Special Permit requirements and other regulations provide enough protection against undesirable impacts. Also, he did not think the proposed change was

an improvement.

Possible Revision of the Zoning Regulations/Section 12.14/ Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment: Mr. Owen will discuss possible revisions with the Zoning Board of Appeals.

Petition to Amend Zoning Regulations/Sections 11.5.1, 11.5.2, and 21.1.37/Lot Coverage and to Create New Section 11.5.3/Maximum Lot Coverage for Pervious Surfaces and Add a New Definition in Section 21 for "Pervious Traveled Surfaces": Mr. Owen noted that at the public hearing closed earlier this evening the commissioners had cited the reasons why they did not support the petition.

MOTION: To deny the petition submitted by Atty. Kelly and Kent Greenhouse to amend Sections 11.5.1, 11.5.2, and 21.1.37/Lot Coverage and to create new Section 11.5.3/Maximum Lot Coverage for Pervious Surfaces and add a definition in Section 21 for "Pervious Traveled Surfaces." By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0. Motion approved, Petition denied. Mrs. Friedman: She had concerns about maintenance, noted the issues that had been raised by the Planning and Inland Wetlands Commissions and by Mr. McGowan of the Lake Waramaug Task Force, and she did not know how the Commission could prevent owners from paving over their driveways after they had built larger structures allowed as the incentive for the pervious driveways. Mr. Averill: He opposed trading pervious driveways for additional lot coverage, noting that if lot coverage increased it would visually impact the Town. Mr. Abella: He agreed with both Mrs. Friedman and Mr. Averill and said the current maximum 15% lot coverage was sufficient and that the Commission would not have the ability to control pervious surfaces. Mr. Shapiro: He agreed with the points made by Mrs. Friedman and said the proposed revisions did not take into account maintenance, installation, and enforcement standards. Mr. Owen: He agreed it would be very difficult to enforce maintenance and to control or even know when pervious surfaced driveways had been paved over. He also thought the Commission did not know enough about the specific circumstances under which the use of pervious surfaces was desirable.

Possible Revision of Regulations/Signs in Residential Districts: Mr. Ajello said there had been recent interest in signs for schools, inns, the Washington Club Hall, and Myfield and for businesses in residential districts. Mr. Owen noted that many pre existing uses had signs and these were useful. Mr. Ajello said currently, the size of residential signs is limited to 2 sq. ft. Mr. Averill questioned why any residential signs other than address and street number were needed. He thought the business permitted in residential districts did not depend on passers-by and so did not need signs. Mrs. Hill noted that business signs in residential districts are not permitted under the current regulations. She thought these signs should continue to be restricted to preserve the residential character of the neighborhoods. Mr. Owen and Mr. Ajello thought there were a limited number of business uses that need signs and that these could be listed in the Regulations. They will draft such a list, which will include maximum sizes for signs, for discussion at a future meeting. Mrs. Friedman recommended that the list be kept to a minimum.

Possible Revision of Regulations/Outdoor Commercial Lighting: Work to draft regulations had not yet begun.

Possible Revision of Regulations/Preservation of Stonewalls: Mrs. Hill explained that she had a conversation with a reporter investigating this matter who told her that only one town in Ct. prohibited the dismantling of stonewalls and that the state did not have a law prohibiting the removal of walls that serve as boundary lines. She thought perhaps the Zoning Commission might draft a regulation to preserve them. Mr. Ajello noted the existing stonewalls are a part of the local culture and contribute to rural character. Mrs. Friedman said the Conservation Commission supports the preservation of stonewalls. Mr. Ajello stated that towns normally deal with this issue by town ordinance. There

was general support for a town ordinance. This matter will be referred to the Conservation Commission.

Possible Revision of Regulations/Dance Studios in Residential Districts: Mrs. Hill explained that Pilobolus had asked about the possibility of purchasing a lot in Town for the purpose of constructing a rehearsal hall/dance studio and education center. It did not plan to use the studio to hold public performances. It was noted it has outgrown the Washington Hall Club and would like to remain in Washington. She said that under the current regs studios, workrooms where art is produced, are permitted as accessory uses to the primary use on the property. Pilobolus, however, wanted to construct a studio as the primary use. Mr. Owen noted that Washington is fortunate to have two national dance companies as local industries and it would be a “tragedy” if either had to leave Town. He said he was interested in finding a solution and also noted that both had been operating in Washington for years and the Commission had never received a nuisance complaint. Mr. Barnett, representing Pilobolus, said the company had no plans yet and so could design to accommodate the Regulations. Mr. Ajello asked if the office would be moved to the new studio. Mr. Barnett said he liked the Depot location. Mrs. Friedman asked what educational activities would be conducted. Mr. Barnett said Pilobolus has a relationship with ASAP and holds summer day camp for kids, adult non dancer classes, etc. Mr. Abella and Mr. Shapiro thought amendments to allow the type of studio discussed would be appropriate. Mrs. Friedman noted that any amendments would have to include protection of the residential neighborhood. Mr. Ajello said noise and traffic would be concerns. Mr. Barnett said the company had envisioned a single building with two studios, which would have to be well insulated so the sound from one would not disturb the other. Mr. Barnett reiterated that this would not be a performance hall or theatre, although the company does hold an annual open rehearsal. Mrs. Friedman suggested that the company could continue to use the Club Hall for such performances. Mr. Ajello said he thought a commercial district would be a more appropriate location for the studio due to traffic concerns. Mr. Owen disagreed, saying dance studios were a low impact use that had existed in Town for years. The possibility of including a dwelling unit in the structure was also considered. Mr. Owen will meet with Mr. Ajello and Mr. Barnett before the next meeting to discuss this further.

Privilege of the Floor

Mr. Ajello recommended to the Commission that it resume work on a definition of inn. Mr. Owen noted the Commission had gotten “stuck” when it attempted to do so in 2007 and said he did not think it was an urgent matter.

Mr. Owen spoke in general about the purpose of public hearings, which, he said, was to give the public the opportunity to present information and opinions to the Commission. He explained that the Commission did not take a vote of how many speakers were for or against a proposal, but made up its own mind based on what was the right thing to do and what complied with the Regulations. He urged the commissioners to keep that in mind during all public hearings.

Communications

Mrs. Hill noted that copies of all letters submitted to date regarding the Wykeham Rise, LLC. inn application had been given to the commissioners to read before the public hearing.

Mr. Shapiro asked if Atty. Zizka’s opinion on Section 13.9 was written. Mr. Owen stated there was an email in the file and he could be asked to attend the public hearing if necessary. He added that he had not discussed the letter from Atty. Strub with Atty. Zizka.

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

Mr. Owen adjourned the meeting at 9:08 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill
Land Use Coordinator