

## June 26, 2006

MEMBERS PRESENT: Mr. Averill, Mrs. Friedman

MEMBERS ABSENT: Mr. Fitzherbert, Mr. Martin, Mr. Owen

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

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Sedito, Mr. Charles, Mr. Reid, Mr. Sears, Ms. Nevel, Mr. Griffiths, Mr. Talbot, Mrs. Pullaro, Mr. Lasar, Press

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

### PUBLIC HEARINGS

#### **Reid/287 New Milford Turnpike/Special Permit: Section 9.4.1/Small Scale Business Establishment**

Mrs. Friedman commenced the public hearing at 7:32 p.m. She then read the legal notice published in **Voices** on 6/14 and 6/21/06 and the list of documents in the file.

Ms. Nevel, tenant, noted there was a change in the application. She submitted the 6/26/06 letter to the Commission, withdrawing request for the proposed sign and substituting instead two signs 7 to 9 feet tall by 4 feet wide to be placed on either side of the door on the front exterior of the building. She noted neither sign would project more than 12 ft. above the ground. Mr. Ajello stated the proposal complied with the Zoning Regulations.

Mr. Reid, property owner, stated two bay windows, which would extend out from the building 2 ft. 6 in., were proposed.

Lighting was discussed in detail. Ms. Nevel proposed to have display lighting on all the time. Mrs. Friedman pointed out that display and window lighting has become a problem in New Preston because it is too bright and distracting when viewed from off site. Mr. Ajello thought soft light and security lighting would be OK and noted there were residences across the street from the Reid property. Mrs. Hill noted this was a Special Permit application and referred to the standards cited in Section 13.1.B, which refers to nuisance conditions at or beyond the property line. Mrs. Friedman pointed out the tenant intended for the light to extend beyond the property line so people driving by could see it. She suggested a time restriction on the proposed lighting, except for security lights, as a condition of approval. Ms. Nevel countered that this property differed from New Preston where there is a mass of stores and said she did not propose to light the signs. Mr. Shapiro noted lit signs are permitted, but not back lit signs.

Mr. Ajello advised the applicant he could apply for a directory sign since there would be more than one business in the building. Mr. Reid said he had no plans for a directory sign and that Ms. Nevel did not propose a free standing sign.

It was noted the new business would be a clothing store.

Mr. Ajello said there were no other issues; that there was plenty of parking available and loading would not be a problem.

MOTION: To close the public hearing to consider the Special Permit application: Section 9.4.1 submitted by Mr. Reid for a small scale business establishment at 287 New Milford Turnpike. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

Mrs. Friedman closed the public hearing at 7:51 p.m.

#### **Wodtke/155 West Shore Road/Special Permit: Section 6.6.12/Dock**

Mrs. Friedman called the public hearing to order at 7:52 p.m. and read the legal notice published in **Voices** on 6/14 and 6/21/06. She also noted the list of documents in the file.

No one was present to represent the applicant.

Mrs. Friedman noted the reason for the Special Permit application under Section 6.6.12 was that the dock did not meet the 25 ft. setback requirement from the side boundary lines as there was only 40 feet of shoreline.

Mr. Ajello said the proposed dock was a traditional dock that met all the other zoning requirements including size. He also noted Trooper Sordi, the lake safety officer, had approved it.

There were no questions or comments from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 6.6.12 submitted by Mr. and Mrs. Wodtke for a dock at 155 West Shore Road. By Mr. Abella, seconded by Mr. Averill, and passed 5-0.

Mrs. Friedman closed the public hearing at 7:56 p.m.

#### **Revision of the Zoning Regulations-Sections 13.17.4 and 15: Parking and Sections 11.5.1, 11/5/2, 7.5, 8.6.6, and 8.6.7: Setbacks and Coverage in the New Preston**

Mrs. Friedman reconvened the public hearing at 7:56 p.m. and noted in his absence, Mr. Owen had submitted a letter dated 6/17/06. She noted that due to technical problems with emails and the copier there were only three copies of the 6/26/06 revised draft available. The main changes in the latest draft were: 1) references to zero setbacks and one hundred percent coverage were deleted, 2) applications under the new regulations would be by Special Permit, and 3) more descriptive and detailed criteria were added to the standards by which the Commission would judge the Special Permit applications.

Mr. Charles asked if he understood correctly that this type of Special Permit application would not be a ZBA issue. Mrs. Friedman said that was correct. The Special Permit applications would be submitted to the Zoning Commission who would conduct a public hearing.

Mr. Talbot supported the revision to require a Special Permit.

He asked if it would be required for all applications in the Depot. Mrs. Friedman responded, no, it would be required only for those applications proposing to exceed the current coverage or decrease the current setback requirements. She again explained the criteria to be evaluated by the Commission when considering a Special Permit application had been elaborated in the latest draft. Mr. Talbot noted, however, the criteria did not include density or FAR (floor area ratio) requirements, which might control the total square footage of a proposed building. Mr. Sears noted the proportion of the buildings on the surrounding properties would be considered. Mr. Talbot thought the draft was well thought out, but that questions remained about how the regulations would be administered. He noted both the intent of both the Planning and Zoning Commissions was to allow a slightly denser town center, but he did not think it was clear how the Commission would review each proposal and decide yes or no. Mr. Shapiro explained the process would be like the one already used by the Commission for Special Permits under Section 13 and that criteria such as size, alignment, and village character would be considered.

Mr. Talbot asked if the draft regs had been reviewed by a planning consultant. Mrs. Friedman said they had not, although the Commission's attorney had reviewed them. Mr. Talbot recommended they be referred to a consultant who specifically knows Washington to make sure they address all necessary issues. For example, he asked whether the Commission was confident the proposed regs would maintain the streetscape and if they included provisions for trees and "green lines" connected to buildings. He was concerned that new buildings would gradually create a new streetscape that could then be the standard for future applications. He also noted that septic approval was an essential part of the permit process and that the Health Dept. would actually maintain the density more than the Commission would.

Mr. Charles again made the points he raised at the last meeting; 1) He asked that a planning consultant review the draft regs, 2) He said a study showing the total build out that would be possible in New Preston and the Depot under the new regs should be done before the regs are approved, 3) He asked that all the resources in the village centers be studied, especially septic capabilities, prior to approval of the regs because it might be necessary to reserve some of the good soils for reserve septic areas should the systems for the existing houses fail, 4) He thought the Commission was moving too quickly to consider all of the implications the new regs would have, 5) He did not think the plans for the Texaco station property fit in with the street plan proposed by the Planning Commission, 6) In addition to a septic study, he asked that a study of the flood plain and traffic studies by both Wilbur Smith and the state DOT be completed prior to approving the regs, and 7) He noted the Planning Commission had promised the public that it would have an opportunity to discuss the Depot study prior to the implementation of any changes and said Zoning was moving forward before this had been done. Mr. Shapiro read a paragraph from Mr. Owen's 6/17/06 letter, which explained why, in his opinion, a build out study was not needed and that noted the Planning Commission had voted to endorse the proposed regulations.

Mr. Sears thought out of respect to the Planning Commission there should be an opportunity for public discussion prior to the implementation of the regs. Mrs. Friedman noted the Zoning Commission had begun discussing these revisions prior to the Planning Commission beginning the Depot study.

Mr. Sedito agreed that the draft regs should be referred to a planning consultant because they would have a major impact on the Town. He

asked if in addition to the review of the criteria proposed for Special Permits, the site plan requirements in Section 14 would be reviewed. He worried about the Zoning Commission's ability to make judgments regarding the new standards and the possibility of lawsuits. Mr. Abella said the Commission might require that applications be reviewed by consultants and asked if the applicant could be charged for these reviews. Mrs. Hill thought this would be possible under the current Town ordinance regarding consultants fees. Mrs. Friedman noted the Commission had not assumed every application would require a review any more than it had when it had implemented the revised Marbledale regulations.

Mrs. Pullaro asked if the proposed regs would affect the ability of any of the residential properties in either business district to change to a commercial use. Mrs. Friedman explained the proposed regs would only come into play if the business use proposed either a decrease in the current setbacks or an increase in the current coverage requirements. Mrs. Pullaro asked if after a nonconforming building went through the Special Permit process it would still be non conforming. Mrs. Friedman said it would not.

Mr. Sedito said he was concerned what would happen should the revisions be approved and the Texaco, Supply, and Hickory Stick properties all proposed changes under the new regs. Mr. Averill replied he was more worried about what would happen if those three properties proposed redevelopment under the current regulations. He noted the proposed revisions would not throw out the existing regs. Although the proposed regs would not restrict the kinds of businesses allowed in New Preston and the Depot, he thought they would help the Town keep out automobile oriented, Rt. 7 type of businesses. He said he did not understand the public's fear of the proposed regs.

Mrs. Friedman thought the public was concerned about the make up of the Zoning Commission and whether future Zoners would interpret the regs as the current Commissioners would. Mr. Charles agreed.

Mr. Sedito voiced his concern about parking. If a property such as the Texaco station was approved for a specific use(s) with a specific number of parking spaces, he asked, how would parking be addressed if a change of use was proposed later. Mr. Ajello responded that a proposed increase in a Special Permit would require a Special Permit application and the parking would be reviewed as part of that process. Mrs. Friedman pointed out that the parking requirements don't differentiate between different kinds of office use. Mr. Sedito pointed out that real estate offices, for example, need many more spaces than other offices do.

Mrs. Friedman asked the Commissioners how they would feel about continuing the hearing and referring the draft regs to a planning consultant familiar with the Depot study. No one raised any objections.

Mr. Charles recommended the regs be referred to Wilbur Smith-Robert Orr Associates, Chris Wood, and/or Planimetrics.

At 8:33 p.m. Mrs. Friedman continued the public hearing to Monday, July 24, 2006 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington Depot, Ct.

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

## REGULAR MEETING

Mrs. Friedman called the Regular Meeting to order at 8:34 p.m. and seated Members Averill and Friedman and Alternates Abella, Shapiro, and Wyant.

#### Consideration of the Minutes

The 5/22/06 Public Hearing-Regular Meeting minutes were accepted as corrected. On page 6, near the end of the third paragraph, it should state that Mr. Shapiro suggested that any mention of a specific target number be eliminated.

MOTION: To accept the 5/22/06 Public Hearing - Regular Meeting minutes as corrected. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

MOTION: To accept the 4/18/06 Special Meeting minutes as written. By Mr. Abella, seconded by Mr. Shapiro, and passed 5-0.

#### Pending Applications

**Reid/287 New Milford Turnpike/Special Permit: Section 9.4.1/ Small Scale Business Establishment:** Mrs. Friedman noted the main issue voiced at the public hearing had been lighting. Mr. Ajello suggested approval be conditioned upon restricted hours for lighting and compliance with Section 16, sign requirements. It was agreed the display lights should not be on between 10:00 p.m. and 6:00 a.m. It was noted the use as a clothing store was permitted under Section 9.4.1.a. It was also the consensus that the Commission should begin to work on specific lighting requirements for both the commercial and residential districts.

MOTION: To approve the Special Permit application: Section 9.4.1 submitted by Mr. Reid for a small scale business establishment at 287 New Milford Turnpike subject to the following conditions: 1) no display lighting is permitted between the hours of 10:00 p.m. and 6:00 a.m. and 2) the signs shall comply with Section 16 of the Regulations. By Mr. Averill, seconded by Mr. Wyant, and passed 5-0.

**Wodtke/155 West Shore Road/Special Permit: Section 6.6.12/Dock:** Mrs. Friedman noted the public hearing had been closed and no issues had been raised. Mr. Averill stated he had spoken with a neighbor who had no objections.

MOTION: To approve the Special Permit application: Section 6.6.12 submitted by Mr. and Mrs. Wodtke to install a dock at 155 West Shore Road subject to the condition that all the other requirements of Section 6.6 be met.

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

#### New Applications

**Ten Titus, LLC/10 Titus Road/Change of Use to Office-Retail:** Mr. Ajello noted the existing barn at the rear of the building was now used for light manufacturing and it was proposed to convert it to office and retail space. He said there was plenty of parking on site, but wondered if there would be in the future if there were incremental increases in use. It was noted again that offices in general were covered in Section 16; there weren't different requirements for each type of office use. Mr. Shapiro asked what would happen if a change of use was proposed and there was not enough parking available. Mr. Ajello said the applicant could either apply for a variance or for a Special Permit

