

June 27, 2011

Present: Ray Reich, Gary Fitzherbert, Ralph Averill

Alternates Present: Andy Shapiro, A. J. Dubois

Absent: David Owen, Lou Abella, Harry Wyant, Alt.

Staff Present: Janet Hill, Shelley White

Others Present: Ms. Berg, Mr. Woodruff, Mr. Neff, Engineer, Mr. Klein, Mr. Ebner, Ms. Ebner-Martin, Mr. Hyde

Mr. Fitzherbert called the meeting to order at 7:35 p.m.

PUBLIC HEARINGS

Seated: Mr. Reich, Mr. Fitzherbert, Mr. Averill, Mr. Shapiro, Alt., Mr. Dubois

Berg/148A Whittlesey Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Ms Hill read the legal notice published in Voices on June 15 and June 22, 2011 and Mr. Fitzherbert read the list of documents in the file. Mr. Neff, Engineer and Ms. Berg, property owner, were present. Mr. Neff and the Commissioners looked at the map titled Proposed Site Plan, Swimming Pool and Pool House, 148A Whittlesey Road, by Brian Neff, dated 5-11-11. Mr. Neff stated that the pool house would have all the amenities and a shared driveway with the main house and would qualify as an accessory apartment. He stated that the proposed plan has been approved by the Health Department and it is not near wetlands. Ms. Hill stated that this application is complete. There were no further questions or comments

Motion:

to close the Public Hearing to consider the application for Berg, 148A Whittlesey Road/Special Permit: Section 13.11.3/Detached Accessory Apartment,

by Mr. Shapiro, seconded by Mr. Dubois, passed by 5-0 vote.

Revision of the Zoning Regulations/Proposed Section 17.8: Expansion of Grandfathered Non Conforming Uses by Special Permit:

Ms Hill read the legal notice published in Voices on June 15 and June 22, 2011 and Mr. Fitzherbert read the list of documents in the file. Mr. Fitzherbert read the motion from the Planning Commission, dated 6-7-11, approving the revision (on file in the Land Use Office) and the proposed language for the proposed section 17.8. Mr. Averill stated that he felt this was a good way to resolve the problem without 'opening a can of worms.' Mr. Shapiro stated that this proposed revision would allow the Zoning Commission the authority to act on these situations. There were no further questions or comments.

Motion:

to close the Public Hearing to consider the Revision of the Zoning Regulations/Proposed Section 17.8: Expansion of Grandfathered Non Conforming Uses by Special Permit
by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

REGULAR MEETING

Consideration of the Minutes

The minutes of the May 23, 2011 Zoning Commission Meeting were considered.

Motion:

to accept the Zoning Meeting Minutes of May 23, 2011, as submitted,
by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

Pending Application(s)

Berg/148A Whittlesey Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

The Commission considered the application submitted by Ms. Berg. There were no further discussions.

Motion:

to approve the application for Berg /148A Whittlesey Road/Special Permit: Section 13.11.3/Detached Accessory Apartment,
by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

New Application(s)

There were no new applications.

Other Business

Revision of Zoning Regulations t/Proposed Section 17.8: Expansion of Grandfathered Non Conforming Uses by Special Permit:

The Commission considered the proposed revision. There were no further comments or questions.

Motion:

to approve Revision of the Zoning Regulations/Proposed Section 17.8: Expansion of Grandfathered Non Conforming Uses by Special Permit
by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

Update: Parking at the Community Table/223 Litchfield Tpk.: Mr. Fitzherbert stated that there have been complaints from the neighbors regarding parking on Wilbur Road for employees and some customers of the Community Table. He stated that the cars park there everyday and that the commercial boundary line goes down the middle of Wilbur Road and parking is legally allowed on the shoulder unless the Selectmen issue an ordinance against it. Mr. Fitzherbert stated that the Board of Selectman has asked for the Zoning Commissions feedback on this matter. Mr. Shapiro asked if parking on the shoulder of Route 202 was permitted. Mr. Fitzherbert stated that Route 202 is a State road and the State is responsible for enforcing parking issues on that road. Mr. Averill stated that he sympathizes with the neighbors on Wilbur Road and he feels that the employees of the Community Table should park further away, shuttle everyone to work in one car and save the parking spaces for the customers. Mr. Fitzherbert stated that the existing parking spaces are much larger than needed and that these could be decreased in size to maximize the number of spaces and there is a possibility of more parking spaces in front of the garbage/delivery area. He suggested that the restaurant hire a professional to create a more efficient parking plan. He stated that there is about 12-14 feet of mowed wetlands that could also be used to add more parking as long as the Inland Wetlands Commission approved it. Mr. Fitzherbert read the suggestions listed in Ms. Hill's Administrative Report dated June 27, 2011.

Mr. Averill asked what the Selectmen would like from the Zoning Commission. Mr. Fitzherbert stated that they are looking for suggestions. Ms. Hill stated that she would write a letter to the owner of the restaurant with the suggestions.

Mr. Hyde of Wilbur Road read and submitted a letter to the Zoning Commission dated 6/27/11 (on file in the Land Use Office). In Mr. Hyde's letter he stated that parking from the restaurant is a public safety issue and he cited Zoning Regulations Sections 15.1 General Requirements and 10.1 Purpose. He stated that the Community Table has a shared parking agreement with one of its neighbors and he does not understand why it is not in use. The Commission discussed whether or not the people that are parking on Wilbur Road are walking on a footpath that goes through wetlands to get to the restaurant. Ms. Hill stated that parking could not be located on the existed septic because the galleries are not reinforced. The Commission looked at the photos submitted by Mr. Hyde.

Mr. Averill stated that he did not see how the Community table could get around Zoning Regulation 15.1. Ms. Hill stated that the use as a restaurant was grandfathered in. Mr. Hyde stated that he did not understand why 17 parking spaces were accepted as enough parking for employees and customers. Mr. Fitzherbert stated that the 17 parking spaces were considered adequate when the plan was brought to the Zoning Commission. Ms. Hill stated that the current shared parking agreement is for weekends only. Mr. Averill stated that he does not understand why the Zoning Commission is spending so much time on this issue and he feels that the owner of the restaurant needs to solve the problem. Mr. Fitzherbert stated that the Selectmen have asked the Zoning Commission to review the issue and possibly come up with some suggestions and draft a letter with these suggestions to the owner of CT restaurant.

The Commission discussed what they would like to include in the letter to the restaurant. Ms. Hill stated that she would compose a letter and send it to Mr. Fitzherbert for review before sending it.

Privilege of the Floor

Mr. Fitzherbert asked Mr. Woodruff if he had any new issues he would like discussed regarding his neighboring property, 35 East Shore Road and stated that under item VIII. Enforcement on the agenda, the Commission would be discussing Ms. Hill's report on the issues Mr. Woodruff has requested be addressed by the Town. Mr. Woodruff stated that the Zoning Regulations are meant to protect the property owner's property. He stated that his neighbor has done many things to her property without going through the proper permitting process and he would like his property protected and requests a cease and restore order be issued.

Zoning Enforcement

Smith/35 East Shore Road/Discussion of Woodruff Complaint:

Ms. Hill submitted a memo to the Zoning Commission regarding Complaints re: Work Done/Activities at 31 and 35 East Shore Road dated June 23, 2011 (on file in the Land Use Office). Ms. Hill stated that this document is an attempt to show to Mr. Woodruff's satisfaction that each of his complaints regarding zoning matters has been fully investigated.

The first item on the memo was regarding the utility shed that is too close to wetlands and boundary line and the Commission agreed that the Land Use Office has handled this matter correctly.

The second item was regarding the "footbridge" installed across the East Aspetuck River. The Commission noted that the footbridge (two planks and sheets of plywood) is considered temporary and the Inland Wetlands Permit would expire on 10/25/11 at which time the planks will have to be removed and an extension to the I/W Permit would have to be applied for. The Commission discussed whether a zoning permit is necessary for a temporary bridge. Mr. Shapiro stated that he feels a zoning permit is necessary for a bridge because it is a structure. Mr. Averill stated that he feels a temporary structure should be allowed without permits and before signoff of the permit the temporary structure must be removed. Ms. Hill stated that any bridge would have to go to ZBA because of its proximity to wetlands. Mr. Fitzherbert stated that he did not feel the Zoning Commission needed to do anything regarding this "footbridge" as the I/W permit expires in October. It was the consensus of the Commission that this bridge did not need a zoning permit.

The third issue included in the memo was regarding installation of bright outdoor lighting. Ms. Hill stated that she has not heard back from the Building Department on this matter. The Commission agreed that Ms. Smith might have to apply for a permit if she could not prove the installation date was before 4/14/07 when the lighting regulations changed.

It was the consensus of the Commission that the boundary lines must be verified and that a permit must be obtained for item #4 – Installation of concrete pad and propane tank too close to boundary line. Item # 5 was regarding placement of garden ornaments. The Commission confirmed that small garden ornaments that cover no more that 4 square feet with a manmade impervious surface do not need a zoning permit.

The sixth issue was regarding a stone patio that is too close to the boundary line and approximately 65 feet from the East Aspetuck River. Ms. Hill stated that a permit was never issued for this patio. Ms. Hill and the Commission discussed the definition of a patio. Mr. Shapiro stated that a patio is included in the regulations as a structure. Ms. Hill stated that all structures must meet the setback requirements. Mr. Averill stated that he felt a patio becomes a structure when it is constructed of impervious materials such as concrete or stones set in

concrete. Ms. Hill stated that she read a definition of a patio and it included that the structure is attached to a house. The Commission did not agree that a patio would have to be attached to a house. It was the consensus of the Commission that they would have to define 'patio' in the future. Mr. Averill questioned when would a cluster of stones set in the ground become a patio. Mr. Reich stated that it could be defined by use. The Commission discussed whether a pervious surface patio could ever be considered a drainage structure. The Commission agreed that Ms. Smith would have to apply for a permit for the stone patio.

The Commission considered item # 7 – Installation of Stone Walkway from Driveway to Shed and looked a photos of the walkway. It was the consensus of the Commission that a permit would not be necessary for this walkway.

The eighth issue was regarding electrical panels located within the 25-foot boundary setback. The Commission looked at photos of the electrical panels and agreed that it was a structure and a permit is required.

The ninth and final issue addressed in the memo was regarding reconstruction of the guesthouse at 31 East Shore Road without the required permits. Ms. Hill stated in her letter that the house was rebuilt slightly larger than the original footprint 13 years ago and would have required a permit. The Commission agreed that per Section 8-13a of the Connecticut General Statutes that the Zoning Commission could take not further action.

The Commission stated that the Building and Health Departments and the Inland Wetlands Commission still have to address Mr. Woodruff's complaints.

Adjournment

Motion:

to adjourn at 10:10 pm.

by Mr. Averill, seconded by Mr. Reich, passed by 5-0 vote.

Mr. Fitzherbert adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk,