

July 22, 2002

MEMBERS PRESENT: ALTERNATES PRESENT: ALSO PRESENT:

Mr. Fitzherbert	Mr. Abella	Atty. Andrews
Mrs. Friedman	Mr. Brinton	Mr. Cass
Mr. Martin	Mr. Shapiro	Ms. Campbell
		Mr. White

MEMBERS ABSENT: STAFF PRESENT:

Mr. Owen	Mrs. Hill
Ms. Page	

PUBLIC HEARING

Devereux Foundation/81 Sabbaday Lane/Special Permit: Section 4.4.10/Library Addition

Mr. Martin called the public hearing to order at 7:32 p.m. and seated Members Friedman and Martin and Alternates Abella, Shapiro, and Brinton. Mr. Fitzherbert recused himself because he is employed by Devereux and had left the table. Mrs. Friedman read the legal notice published in **Voices** on 7/10 and 7/17/02.

Mr. Martin reviewed the list of all the documents in the file. (See attached list) He read the 6/20/02 letter from Mr. Cass to Mr. Wetterman of the DEP and the 7/19/02 memo from Mr. Fitzherbert regarding compliance with the standards in Section 13.1.B.

Mr. Cass and Ms. Campbell represented the Devereux Foundation. Using the "Site Analysis Plan," dated March 2002, unsigned, Mr. Cass pointed out the proposed location of the 1500 square foot library addition approximately in the middle of the existing campus, stating a corner of an existing building would be "filled in." He also submitted photos, which showed the proposed location and the view of the area from the road. Due to the existing landscaping and vegetation, the addition would be visible from only one of the adjoining property owners. Elevations by Mr. Worcester dated 6/26/02 were reviewed. It was noted the addition would require no plumbing because there were already bathroom facilities in the existing building, and the Health Department had approved the application.

Mr. Martin noted the adjoining property owners had been sent certified letters twelve days prior to the hearing.

Future plans for Devereux-Glenholme were briefly addressed. The site plan was reviewed again. Mr. Cass said the school was currently fundraising for an indoor riding ring and an auditorium. Future plans also called for a classroom addition and two dorms. Mrs. Campbell noted that only the dorms would increase the size of the student population and the staff.

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

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.10 submitted by the Devereux Foundation to construct a library addition at 81 Sabbaday Lane. By Mr. Shapiro, seconded by Mrs. Friedman, and passed 5-0.

Mr. Martin closed the public hearing at 8:47 p.m.

This public hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Regular Business

Mr. Martin called the meeting to order at 8:47 p.m. and seated Members Fitzherbert, Friedman, and Martin and Alternates Abella and Brinton for Mr. Owen and Ms. Page.

Consideration of the Minutes

The 6/24/02 Regular Meeting minutes were accepted as corrected. On page 6, under 13.19.8.f "roof" should be added to read, "on the school roof."

MOTION: To accept the 6/24/02 Regular Meeting minutes as corrected. By Mr. Fitzherbert, seconded by Mr. Abella, and passed 5-0.

Pending Application

Devereux-Foundation/81 Sabbaday Lane/Special Permit: Section 4.4.10/Library Addition

Mr. Fitzherbert recused himself because he is employed by Devereux and left the table. Mr. Martin seated Alternate Shapiro.

Mr. Martin noted no issues had been raised either at the public hearing or in the 7/22/02 ZEO's Report.

MOTION: To approve the Special Permit application: Section 4.4.10 submitted by the Devereux Foundation to construct a library addition at 81 Sabbaday Lane. By Mr. Shapiro, seconded by Mr. Abella, and passed 5-0.

Mr. Fitzherbert was reseated.

Communications

Report on Meeting of Zoning and ZBA Chairmen and Vice Chairmen

Mr. Martin reported the meeting had been constructive and common ground between the two commissions had been found. He said there was general agreement that variance standards in the CGS statutes should be applied and that ZBA should be the board that defines what constitutes a hardship. Each application should be considered on its own merits in applying variance standards. Mr. White said ZBA was revising its application form, basing it on the Town of Warren's, which requires a statement regarding hardship and parcel uniqueness.

Mr. White, ZBA Chairman, noted that whether or not it is reported in the minutes, the pros and cons of each application have been considered by the ZBA and in the future they would be related more to the question of hardship, and this discussion would be reflected in the minutes.

Mr. Martin thought ZBA's applications should be used as an early indicator of those areas of the Zoning Regulations that may need revision. For example, the maximum coverage for smaller lots was increased to 15% due to the number of variance applications ZBA received in this area. Mr. Martin noted this was a good example of how the two commissions have worked together in the past. He suggested that a joint meeting could be of value to discuss matters of mutual interest in the future.

Mr. White said ZBA favored a joint meeting. He added that the Zoning Commission must understand what is involved in considering ZBA variance applications so there would be a level of mutual respect between the two commissions. He noted, too, that in most towns zoning commissions and zoning boards of appeal almost never always agree.

Update/Sprint/399 Chestnut Land Road, N. Milford/Wireless Communications Facility

Mr. Martin said Atty. Ziska had been retained to help guide the Commission through the telecommunication tower process as he had experience before the Ct. Siting Council and also land use experience in the Town of Washington. His primary focus will be the issues raised by the Commission at the last meeting; location and the options Sprint has not considered for mitigating harm to Washington's vistas. Mrs. Friedman was assigned as "point person" to find documentation regarding vistas in Washington documents. Mr. Martin explained that since the jurisdiction over cell towers recently shifted to the state Siting Council, the mission of the Siting Council is to arrange for competitive coverage in Ct. Therefore, Atty. Ziska has advised the Town to take a proactive approach, and tell the Siting Council that Washington wants to find the best sites with the least harmful impact to the Town. Mr. Martin noted this was a less costly approach than to hire a radio frequency engineer and contest every application. Hopefully, the Siting Council would order the applicant to research some of the options that would mitigate impacts on Washington. He said Zoning's strategy was to intervene early in the process to help ensure the most appropriate sites were chosen. Mrs. Friedman recommended the Conservation Commission be utilized to study where the most appropriate locations for communications towers would be in Washington and it was the consensus this was a good idea. Mr. Martin said he would ask for the Conservation Commission's help. Mr. Martin stated this is a Town policy issue that would be discussed at future Board of Selectmen meetings. Mrs. Friedman also thought properties where the Town or a Town organization would receive rent should be those considered first and not private properties. Mr. Martin thought that the best sites should be considered, irrespective who owns them. Mr. White suggested the Town could approach the owners of potential sites where the location of towers would not be in the best interests of the Town and try to

preempt them. It was noted the current Zoning Regulations are only advisory since the jurisdiction has been given to the Ct. Siting Council.

Revision of the Zoning Regulations

1. Sections 13.1.B and 2.3.1: It was noted a final discussion took place at the last Zoning meeting and a public hearing had been scheduled for 8/26/02. Mr. Martin read proposed Section 2.3.1 and noted proposed Section 13.1.B was a clarification and change of wording to align better with recent Supreme Court rulings. Mr. Shapiro had several comments concerning the proposed revision of Section 13.1.B: A) 13.1.B.4: He liked the current wording, which states the Town's existing rural street network includes state highways and town roads. B) Also, in the same section, he was not sure "width" and "capacity" were interchangeable. C) 13.1.B.5: Mr. Shapiro questioned what was meant by "provision of buildings." D) Mr. Shapiro thought the rewording of the entire section was confusing as it sometimes refers to uses and other times refers to structures and is structured in three different ways. E) 13.1.B.6: At the end, he thought "screening material" should be added. Mr. Martin noted all these concerns must be raised again at the public hearing.

2. Section 12.14 - Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment: Mr. Martin noted this section had been drafted by Mr. Owen, but the handwritten comments were his. He noted the metrics proposed were taken from ZBA recommendations and that Section 12.14.5 was Mr. Owen's idea to create more flexibility for the applicant. Mr. White objected to Section 12.14.6, which stated this section could not be varied. Mr. Martin raised concerns whether proposed Section 12.14.6 was legal. Mr. White suggested Zoning delegate this matter to ZBA as a Special Exception rather than exercising every oversight possible over ZBA. Mr. Martin noted the Zoning Commission had no interest in taking on more regulatory workload. Deleting proposed sections 12.14.5 and 12.14.6 would achieve this. Further discussion was tabled to the next meeting when it was hoped Mr. Owen, the author of the proposal, would be present.

3. Section 18 - Zoning Board of Appeals: Mr. Martin referred to the 6/28/02 letter from Atty. Byrne, which stated the Zoning Commission has the authority to say use variances may not be granted by the ZBA, and Atty. Byrne recommended that it do so. As this has never been the practice of the ZBA, Mr. Martin did not foresee any problem with codifying it. Mr. White said he would like the opportunity to discuss it with the ZBA Members.

4. Section 17 - Nonconforming Lots, Structures, Uses: Mr. Martin explained the proposed revisions would create more flexibility when dealing with nonconformities. The current Regulations, he said, do not encourage the survival of nonconformities even though the Town does want some, such as The Green, to continue. Another reason for the revisions, he said, was that the state statutes had been revised to give owners of nonconforming properties more rights, and so the Regulations required corresponding changes to reflect this. He noted Atty. Byrne had previously indicated the sections that should be deleted and was now recommending additions that should be handled by the Special Permit process. Mr. Martin reminded the Commissioners that Atty. Byrne had sent the Litchfield Regulations as an example of how this section could be addressed, but the Commission had asked him to simplify it in one or two pages. He asked the Commissioners to review this section and to comment at the next meeting. Mr. White pointed out that with all the proposed changes 90% of ZBA's current workload would go to the Zoning Commission. Mr. Martin said Zoning was concerned about increasing its workload. Thus, the proposal could be modified to have ZBA continue to evaluate nonconformity variance applications as it does now. The proposed section was discussed briefly and many questions were raised. Mr. Martin recommended a joint meeting with Atty. Byrne, given the complexity of the matter. Mr. White said the ZBA would also like to have an opportunity to study the proposal. Mr. Martin said when Zoning's proposal is completed, he would refer it to ZBA for input.

Privilege of the Floor

Mrs. Bouquillion, 72 East Shore Road, asked if the Zoning Commission would consider changing the Lake Waramaug Residential District to allow some commercial uses such as restaurants. She noted there had once been a Lake Waramaug commercial district and an ice cream shop at 68 E. Shore Road, the property she was interested in buying, and that it was located between The Boulders Inn and Docs. She also thought a more reasonably priced restaurant was needed near the Town Beach and said this particular property would have no problem with septic or parking. Mr. Martin told her the Commission did not favor spot zoning, and so any change would have to be made throughout the District. In general, the Zoning Commissioners thought this type of change would have tremendous negative implications for properties around the lake and so were not supportive. It was also thought there are generally too many non residential uses in the residential zones so in recent years the Commission has been leaning toward deleting some of those uses rather than adding to them. Mrs. Bouquillion was advised that she had the right to petition the Commission, but, based on this discussion, it did not look likely that the petition would be viewed favorably.

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

There being no further business, Mr. Martin adjourned the meeting at 10:08 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, CZEO