

July 23, 2007

MEMBERS PRESENT: Mr. Averill, Mr. Fitzherbert, Mrs. Friedman

MEMBERS ABSENT: Mr. Abella, Mr. Owen

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

STAFF PRESENT: Mr. Ajello

ALSO PRESENT: Mr. Freer, Mr. Bohan, Resident

Mrs. Friedman called the meeting to order at 7:30 p.m. and seated Members Averill, Fitzherbert, and Friedman and Alternates Shapiro and Wyant for Mr. Owen and Mr. Abella.

Consideration of the Minutes

MOTION: To accept the 6/25/07 Public Hearing - Regular Meeting minutes as written. By Mr. Shapiro, seconded by Mrs. Friedman, and passed 5-0.

Pending Applications

Henisz/52 West Church Hill Road/Special Permit: Section 4.4.15: Home Occupation - Psychiatrist's Office: Mrs. Friedman noted a public hearing had been scheduled for August 27, 2007.

Freer/246 Woodbury Road/Special Permit: Section 13.11/Detached Accessory Apartment: Mrs. Friedman explained a public hearing had not been scheduled for this application because the Commission had been waiting to learn whether the ZBA would first grant a variance to allow the proposed apartment to be served by a driveway not shared with the primary dwelling on the property. Mr. Ajello noted that if the hearing was not scheduled for August, a request for an extension by the applicant would be required. Mr. Freer explained his ZBA hearing had been continued only because the adjoining property owner, who would share the driveway to the apartment, had not picked up his notification of the hearing. A public hearing was scheduled for August 27, 2007 in the Land Use Meeting Room. The hearings begin at 7:30 p.m. The hearing for this application will be the fourth on the agenda.

Stiteler-Giddens/262 West Shore Road/Special Permit: Section 6.4.9/Boathouse: A public hearing had already been scheduled for August 27th; the third hearing on the agenda.

Other Business

Myfield, LLC/7 Mygatt Road/Request to Amend Original Approval: It was noted discussion would take place at the public hearing on

August 27th. Mr. Ajello noted that in addition to the issue of the building construction, the road did not appear to have been constructed as approved because it did not have pervious pavers along the shoulders.

2 Wheaton, LLC /2 Wheaton Road/Request to Revise 2-07 Special Permit: Professional Offices and Setbacks: Mr. Ajello compared the map approved in 2/07 with the proposed site plan shown on the map, "Property/Boundary Survey," by Mr. Alex, dated June 2006 with hand drawn revisions dated 7/23/07. The handicapped ramp had been redesigned to include a gazebo. The proposed revision took the structure approximately 8 ft. further from the property line, decreased coverage, and tied together the two main buildings on the property. It was noted the Health Dept. had approved the revision. A rendering of the proposal was also reviewed.

MOTION: To approve a revision to the 2/07 Special Permit issued to 2 Wheaton, LLC. for professional offices and setbacks at 2 Wheaton Road per the map, "Property/Boundary Survey," by Mr. Alex, dated June 2006, with hand drawn revisions, dated 7/23/07, to show a new size and location for the handicapped ramp. By Mr. Averill, seconded by Mr. Shapiro, and passed 5-0.

Whitney/191/Roxbury Road/Rescind First Cut: Mrs. Friedman noted that new information had been brought to the Commission to show that this had not qualified as a first cut and should have been submitted to the Planning Commission for subdivision approval instead. Mr. Ajello said this kind of procedural error should not happen in the future because the Commission has since required a signed affidavit from an attorney that the proposed division of land qualifies as a first cut. He also circulated a sheet listing all of the information required for first cut applications.

MOTION: To rescind the 10/23/06 approval of the permit granted to Mrs. Whitney for a first cut at 191 Roxbury Road. By Mr. Fitzherbert, seconded by Mr. Averill, and passed 5-0.

Revision of the Zoning Regulations/Accessory Apartments: Mrs. Friedman reported what she had learned from reviewing other towns' zoning regulations: 1) Most towns do not permit both a detached and an attached apartment on the same property. 2) Some limit the number of bedrooms an acc. apt. may have or the number of occupants. 3) Several required that a building be on the tax rolls for a specified period before a permit for an apartment could be approved. 4) Most towns have smaller maximum size requirements than does Washington. These were usually 300 to 750 sq. ft. or 25% of the gross floor area of the main dwelling. 5) Many require a new permit be applied for each time the property is sold. Mr. Ajello noted this is also a requirement in Washington's regs, but said Zoning has no way of knowing when properties are sold. 6) All towns require apartments to be subordinate to the main dwelling on the property. 7) Other towns require that the apartment use the same driveway as the primary dwelling. 8) Many towns specify for attached apartments that there may be no additional doors on the front faade of the house or any exterior alterations. She recommended that Washington consider: 1) allowing only a detached or an attached apartment per property, but not both, 2) limiting the number of bedrooms and/or bathrooms per apt., and 3) retaining the 1200 sq. ft. maximum size, but to include all interior and exterior spaces such as unheated utility rooms, decks, enclosed porches, etc. in that calculation or reducing the maximum sq. ft. of floor area to 950. A lengthy discussion ensued. There was a consensus that only one apartment per property should be permitted and that the provisions that require an accessory apartment to be subordinate to and share the same driveway used by the primary dwelling should be retained. There was no agreement about whether to limit the number of bedrooms or what the maximum size permitted should be. Some commissioners thought that limiting the number of bedrooms permitted might be viewed as discriminating against families and children. Regarding the size of accessory apartments, Mr. Shapiro suggested that perhaps the maximum size should be dependent upon the size of the primary dwelling, although he said that might be unfair to those with smaller

dwellings. Mr. Fitzherbert noted that if a maximum of 1200 sq. ft. including all interior and exterior features was set, it would prevent larger older buildings from housing accessory apartments. Mrs. Friedman suggested there could be an exception for buildings that had been in existence for a specified period of time. Mr. Averill noted the Town needed affordable housing stock, but added that although there was the potential to use accessory apartments to achieve that goal, in reality most were not deed restricted and so do not officially count as affordable. Mr. Ajello asked if the reason for revising this section of the Regs was to prevent subdivisions and/or to limit the impact on the school population. He also said that larger estates need two, three, or more accessory apartments. Mr. Shapiro explained this discussion had begun with the McTiernan application because the primary house had been so small that the proposed detached apartment did not clearly satisfy the requirement that it be subordinate. Mr. Averill pointed out that subordinate did not only mean in size, but also in use and "connection" with the primary dwelling. Mrs. Friedman asked everyone to consider this issue for further discussion at the next meeting.

Multifamily Housing: Mrs. Friedman noted that Mr. Hileman, Chairman of the Housing Commission would attend an upcoming meeting to request that the Commission reconsider its decision not to revise the Regulations to permit multifamily housing.

Privilege of the Floor

Boathouses, Piers, Docks, Etc.: Mr. Ajello asked for an interpretation of the Regs concerning docks and boathouses. He asked if the Commission would object to the construction of a boathouse on an existing pier. He said the Regs do not state that boathouses may not be placed on piers, although they do state that they may not extend over the water. Mr. Fitzherbert thought the intent of the regulation was to protect the water from chemicals and other environmental impacts by requiring boathouses to be located back from the lake. Mr. Averill agreed since the Commission could not control what would be stored inside them and was also concerned about the height of a boathouse located on a pier. Mr. Ajello noted that the Regs fail to address docks on Mt. Tom Lake. Section 12.1.1, which states that "Boathouses shall not extend over or into Lake Waramaug," was reviewed. Mr. Fitzherbert thought this was straightforward and meant that boathouses could not extend past the shoreline. Mrs. Friedman agreed. Mr. Ajello said the existing concrete dock was an impervious surface and so a boathouse on top of it would not extend into the lake. He thought locating a boathouse on an existing pier would cut down on the amount of impervious surfaces built on land surrounding the lake and would solve any setback problems. Mrs. Friedman and Mr. Shapiro thought this would not be permitted unless Section 12.1.1 of the Regs was revised. Because they are impervious, Mr. Ajello questioned where the shoreline was in areas where old concrete piers exist. Mr. Averill asked whether the definition of shoreline included man made structures or only natural land. A member of the public commented that if the pier did not already exist, there would be no question that the boathouse could not be placed in that location. Mr. Ajello noted that putting a boathouse on an existing pier could be considered an increase in the non conformity of a non conforming structure and would require a variance. Mrs. Friedman asked what the hardship would be to justify the variance.

Setbacks from Right of Ways: Mr. Ajello said he was researching this matter and would report about it at the next meeting.

Enforcement

Moore/25 Litchfield Turnpike: Mrs. Friedman asked when Zoning would begin serious enforcement efforts. Mr. Ajello said he would wait until there was progress with Inland Wetlands Commission enforcement orders. He said Mr. Moore would have to apply both for several structures on the property and for the business he is conducting in the residential district.

Ebner/Mt. Tom Road: Mr. Ajello reported the illegal structures had been removed.

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

Mrs. Friedman adjourned the meeting at 9:00 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator