

July 24, 2006

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

MEMBERS ABSENT: Mr. Averill, Mrs. Friedman

ALTERNATE PRESENT: Mr. Abella

ALTERNATES ABSENT: Mr. Shapiro, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Dobson, Mrs. Frank, Mr. Markert, Mr. Charles, Mr. McQueen, Mr. Ficalora, Press

PUBLIC HEARING

Revision of the Washington Zoning Regulations/Sections 13.17.4 and 15: Parking and Sections 11.5.1, 11.5.2, 7.5, 7.6, 8.5, and 8.6: Setbacks and Coverage in the Washington Depot and New Preston Business Districts

Mr. Owen reconvened the public hearing at 7:33 p.m. and seated Members Fitzherbert, Martin, and Owen and Alternate Abella.

He noted due to technical problems, the last session of the hearing had not been recorded, but the members who had not attended the last meeting had all read the minutes, which were detailed.

At the last meeting it had been decided to refer the proposed revisions to a planning consultant. Mr. Owen said he had consulted with the Planning Commission chairman who had recommended Mr. Donovan of Wilbur Smith Associates, one of the firms that had worked on the Depot study. Mr. Owen had sent Mr. Donovan the proposed revisions, minutes of past meetings, and Mr. Owens' 6/17/06 letter to the Zoning Commission, which explained the rationale for the changes. He read Mr. Donovan's memo, which included a few suggestions for "fine tuning" the draft, concluded the proposed changes would be beneficial to the Town, and recommended they be implemented. His suggestions for improvements included; 1) a review of the sign regulations to ensure they would work well with the proposed changes, 2) the limitation or elimination of outdoor storage when either the coverage is increased or the setbacks decreased, and 3) a cooperative effort with the Board of Selectmen to specify what information will be required in order for property owners to receive permission from that Board to use municipal parking spaces to help meet the zoning parking requirements. Mr. Donovan also suggested several more minor changes such as 7.5.1 and 8.5.1: add "vehicular" traffic, 7.6.1 and 8.6.1: add consideration of streetscape elements, 15.3.1: change 500 feet to within 600 feet of the use, 15.4: delete the first sentence because it is redundant. 15.4: change the last sentence to: "If neither option is reasonable, the Commission may require that they be screened by other means," and 15.5.4: add the following phrase at the end: "or modify the current uses to reduce the parking requirement."

Mr. Owen reviewed the list of documents submitted to the file since the last meeting.

Mr. Owen read the 6/23/06 letter from Mr. Boling in support of the revisions.

The Commission discussed each of Mr. Donovan's main recommendations.

- Review of the sign regulations: It was noted the Commission had begun working on revisions to Section 16 and agreed they should be reviewed to make sure they will work well with the new regs for New Preston and the Depot.
- Outside Storage: The commissioners agreed to add protective language by inserting Sections 7.5.4, 7.6.4, 8.5.4, and 8.6.4, which would state that outdoor storage would not be allowed on any lot whose coverage had been increased or setbacks reduced under Sections 7.5, 7.6, 8.5, or 8.6. Mr. Martin noted outside storage referred to inventory and did not mean that businesses could not have properly screened dumpsters.
- Letter from the Board of Selectmen re: granting permission to use municipal parking spaces: While it was thought this was a valid point, it was noted it was Board of Selectmen's responsibility to develop the criteria to be included in the letter.
- Deletion of the first sentence in Section 15.4: It was agreed to take it out because it was redundant.

There were no questions or comments from the public.

Mr. Martin thought the Commission had done an outstanding job listening and responding to the public comment during the public hearing process, and that after receiving input from the public, the Planning Commission, and the Planning Commission's consultant, it was now ready to close the public hearing and vote on the proposal tonight. The other commissioners agreed.

Mr. Charles said he thought Mr. Donovan's memo satisfied most of the public's concerns.

MOTION: To close the public hearing to consider Revisions to the Washington Zoning Regulations - Sections 13.17.4, and 15: Parking and Sections 11.5.1, 11.5.2, 7.5, 7.6, 8.5, and 8.6: Setbacks and Coverage in the Washington Depot and New Preston Business Districts. By Mr. Owen, seconded by Mr. Abella, and passed 4-0.

Mr. Owen closed the public hearing at 7:54 p.m.

This hearing was 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 7:55 p.m.

Consideration of the Minutes

Mr. Owen said he had discussed the minutes with Mrs. Friedman, who had chaired the last meeting, and she had found them to be accurate.

MOTION: To accept the 6/26/06 Public Hearing-Regular Meeting minutes as submitted. By Mr. Abella. (The other commissioners had not attended the meeting.)

Pending Application

Dobson/255 New Milford Turnpike/Special Permit: Section 9.4.1.j/ Shop and Storage Use for Contractors and Building Tradesmen:

Mr. Owen read the 7/24/06 ZEO report. Mr. Dobson noted no septic system was proposed and said his engineer would have plans ready in time for the Health Department to sign off prior to the next Zoning meeting. A public hearing was scheduled for August 28, 2006 at 7:30 p.m.

Other Business

Ridgeline Protection Regulations: Mr. Owen noted the Commission had considered this matter before, but had backed away due to the difficulty in selecting the specific areas to be protected. Mrs. Frank and Mr. Markert of the Conservation Commission were present. Mrs. Frank circulated a photo of development on a ridgeline in Kent as an example of what should be avoided. She noted the Zoning Commission had previously adopted revisions recommended by the Conservation Commission regarding how the height of buildings are measured, said this had been a good first step, but added this had not been enough to protect the viewshed. She stated that due to Washington's complex topography, it was difficult to decide which areas to protect. She thought the current proposal was straightforward because it tied in with accepted maps in the **Natural Resources Inventory**. She read proposed Section 14.3, which would require a site plan for proposed development 250 feet or less from peaks and prominences as shown on the Inventory's GIS Peaks and Prominences Map, dated December 1999 and for proposed development on grades greater than 15 percent as shown on the Inventory's 1999 GIS Slopes Map. Mr. Martin asked if there was a single map that showed both areas within 250 feet of peaks and all areas with grades over 15 percent. Mrs. Frank said there was not. Mr. Markert noted the proposed regulation would not prohibit development in these areas, but would require that it meet higher standards, which were then reviewed. These would limit the disturbance to the canopy, require use of materials, finishes, and colors that would recede into the landscape, and restrict the quantity, type, and character of outdoor lighting fixtures. Mr. Martin applauded the concept and technique for ridgeline protection, but questioned how the Commission would ensure that only the most important areas would be regulated. He thought to regulate all areas within 250 feet of peaks and all areas with a greater than 15 percent grade would be too much, although Mr. Markert thought those areas would comprise only 25 percent of Town since they overlap. Mr. Martin also noted that Mr. McGuinness, Director of the NW Ct COG, objected to including single family dwellings and their accessory uses in any category of regulations requiring stricter standards. It was noted the Commission would have to know how much of Town would be involved before taking any further steps. Mr. Markert thought the Commission should review all development proposed in visually prominent areas to ensure that it would not change the character of the Town. Mr. Martin noted, however, that when this idea had been considered previously, the Commission's attorney had advised that the more selective the criteria, the less arbitrary the regulations would be and, therefore, the more likely to stand up in court. He asked if areas within 250 of a peak, but that no one could see, would be included, noting previously the Commission had been interested in protecting only the views from public areas. Mr. Owen thought the regulations would have to maintain a balance between the rights of private property owners and the interests of the Town in preserving views. Mrs. Frank suggested development at higher elevations and on steep slopes should have stricter review standards anyway to control runoff. Mr. Martin said the Commission's

attorney had indicated regulations to manage runoff and erosion and other environmental impacts would likely stand up in court. Mr. Owen suggested a workable approach might be to start small by protecting the ridgelines surrounding important areas such as Lake Waramaug and Steep Rock and Mr. Martin pointed out Atty. Zizka had said this would be a workable approach. Mr. Martin said all land was not created equal and any regulations implemented would have to take into account the natural features of the land. It was also noted that all applications requiring site plans would have to be acted on by the Commission. Mr. Owen suggested Mr. Martin be appointed to work with the Conservation Commission to develop an acceptable approach, but Mr. Martin said he was not sure he would have the time. He thanked the Conservation Commission for its work to date and encouraged it to continue. Mr. Martin also suggested Mr. McGuinness be contacted. Mr. Markert said he had already talked to Mr. McGuinness and that he had recommended the proposed regulations be tied to existing Town documents. Mr. Owen thanked the Conservation Commission for its perseverance.

Preliminary Discussion/Ingrassia/135 East Shore Road/Hedge: Mr. Bennett, landscape architect, represented the property owner and presented the plans, "Proposed Fence," fence elevation, and fence plan. He said the owners would comply with the previous approval for the fence in front of the house and the barn, but wanted to discuss the possibility of an evergreen screen between the house and barn. The Commission pointed out that per the Regulations, a row of hemlocks was a fence. Mr. Bennett said the proposed the hemlocks would be planted down the slope and so their tops would be no higher than the existing guard rail and they would not interfere with the view from the road. Mr. Martin said the ZEO could stipulate that the hedge be maintained so that it would not exceed a height of two feet measured from the crown of the road and if that was the case, no permit would be required. Mr. Ajello noted fences were limited to 8 feet in height or else they had to meet the setback requirements.

Zoning Fine Ordinance: Mr. Owen reported that Mr. Shapiro has been working with Atty. Zizka to draft the ordinance. When it is completed, the Commission will ask that it be put on the agenda of the next Town Meeting.

Residential Lighting Regulations: Mr. Owen suggested the Commission address this issue because the current Regulations deal with outdoor lighting only in Section 13. Illumination of tennis courts, the up lighting of trees for landscaping, and other non essential lighting are not covered, even though they affect the character of residential neighborhoods and also diminish the beauty of the night sky. Mr. Ajello noted there were also environmental impacts. Mr. Martin noted an easy first step would be to revise Section 4.3.8 to state that only unlit sports courts are permitted in the R-1 District. Mr. Owen asked Mr. Martin to draft a proposal for Section 4.3.8 to be discussed at the next meeting.

Revision of the Zoning Regulations/Setbacks and Coverage in the New Preston and Washington Depot Business Districts: It was noted that Sections 13.16.4 and 14.7.10 already deal with outside storage and that these sections would not be affected by the new regulations. It was agreed that outside storage should not be permitted on any property where the coverage has been increased or the setbacks decreased per the proposed new regulations. Mrs. Hill asked if there might be confusion about the difference between outdoor storage and outdoor displays. It was the consensus the ZEO would deal with any such questions. It was also agreed to implement all of Mr. Donovan's other recommendations as discussed at the public hearing except that the word, "relevant," would not be added to section 15.3.1.

MOTION: To approve revisions to the Washington Zoning Regulations - Sections 13.17.4 and 15: Parking and Sections 11.5.1, 11.5.2, 7.5, 7.6, 8.5, and 8.6: Setbacks and Coverage in the Washington Depot and New Preston Business Districts per the 7/24/06 draft with revisions and corrections as discussed at the 7/24/06 Zoning Commission public hearing and meeting. By Mr. Fitzherbert, seconded by Mr. Abella,

and passed 4-0.

Privilege of the Floor

Mr. Charles said he thought the Town Atty. should have reviewed the revised draft before the Commission voted to approve it. Mr. Owen noted he had, indeed, reviewed a previous draft.

Enforcement

Mr. Ajello briefly reported on the following:

Moore/Litchfield Turnpike: Mr. Moore is working with the Wetlands Commission regarding unauthorized activities on his property and will address zoning issues in the future.

Signs: Mr. Ajello said he has been taking down illegal signs throughout Town.

Outdoor Wood Boilers: Mr. Ajello noted the DEP regulates outdoor wood boilers, but the state building code does not enforce the DEP standards. He suggested the Zoning Regulations address them, noting that some towns prohibit them. Mr. Owen asked him to talk to Mr. McGuinness at the NW Ct COG to find out how other area towns handle them and report back to the Commission.

Motor Track: Mr. Ajello reported he had found a 2.5 mile long motor track, which went through wetlands and caused a lot of environmental impact. He said such a track was not a low intensity recreational use permitted in the R-1 District. He will have an update prepared for the next meeting.

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

Mr. Owen adjourned the meeting at 9:28 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Coordinator