

## July 27, 2009

**Present:** David Owen, Valerie Friedman, Gary Fitzherbert, Lou Abella, Ralph Averill

**Alternates Present:** A.J. DuBois, Andy Shapiro

**Absent:** Harry Wyant

**Staff Present:** Janet Hill, Shelley White

**Others Present:** Michael Boe, Architect, Brian Neff, Jim Brinton, 2nd Selectman, Mr. & Mrs. Federer, Atty. Hill, Mr. Rosenfeld & Ms. Leach, Mr. Charles, Applicants

Mr. Owen called the meeting to order at 7:32 pm.

### PUBLIC HEARING(S)

Seated: Mr. Owen, Ms. Friedman, Mr. Fitzherbert, Mr. Abella, Mr. Averill

10 Main, LLC./10 Main Street/Special Permit: Sections 7.5 and 7.6: Increase in Maximum Permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp:

Ms. Friedman read the legal notice published in Voices on 7/15/09 and 7/22/09. Mr. Owen read the list of documents on file for this application.

Mr. Boe of Boe Studio Architects, was present to represent Mr. Rosenfeld and Ms. Leach of 10 Main LLC. Mr. Boe displayed the map titled "Proposed Accessible Walkway and Covered Walkway Addition Site Plan", by Boe Studio, dated 5/28/09. Mr. Boe explained that over 90% of the building is within the front yard setback. The proposed plan allows for handicap access to the front entrance of the building. The proposed plan includes a covered porch over the portion of the handicap access ramp in the front of the building. Mr. Boe stated that there would be lighting in the soffits of the covered porch area.

Ms. Hill stated that the application seems to have met all the requirements of the regulations and recommended that no outdoor storage be a condition of approval.

There was a discussion as to how the space is being used at the present time. Ms. Hill asked if the Commission wanted to make any conditions regarding outdoor lighting or the length of time the exterior lights would be left on. A discussion followed regarding the exterior lighting.

**Motion:** to close the Public Hearing to consider the Special Permit Application submitted by 10 Main, LLC./10 Main Street/Sections 7.5 & 7.6/Increase in Maximum Permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp, by Mr. Averill, seconded by Mr. Abella, by 5-0 vote.

## REGULAR MEETING

Mr. Owen called the Regular Meeting to order at 7:40 pm.

Seated: Mr. Owen, Ms. Friedman, Mr. Fitzherbert, Mr. Abella, Mr. Averill

### Consideration of the Minutes

#### Corrections:

Page 2:

Under second Motion: should read: to schedule a Public Hearing on July 27, 2009 to consider...

Under Discussion /Section 11.2.1. Density Regulations: 6th sentence, should read: He stated he would most likely not encourage a client to ease that amount of land if it were to put the retained property at less than 1 density unit.

7th sentence – delete

9th sentence – should read: Mr. Owen stated that the property owner was willing to give the land up, and the retained land totals less than one density unit, then he is giving up the right to develop...

11th sentence – should read: Mr. Owen recommended the commissioners continue to consider Atty. Zizka's opinion and thought that Mr. Szymanski might want to consult with Steep Rock.

Motion: to accept the Zoning Meeting Minutes of June 22, 2009 as corrected, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

### Pending Application(s)

#### 10 Main, LLC./10 Main Street/Special Permit: Sections 7.5 and 7.6: Increase in Maximum Permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp:

Mr. Averill commended the work that has been done at the site to this date and stated he is in favor of this application. It was the consensus of the Commission that outside storage and lighting should be conditions of the approval.

Motion: to approve the Special Permit Application: Sections 7.5 & 7.6 submitted by 10 Main LLC for Increase in Maximum Permitted Coverage and Decrease in Minimum Required Setback for Handicapped Ramp at 10 Main Street with the following conditions:

1. There will be no outdoor storage per sections 7.6.4 & 7.5.4 and
2. There will only be soffit lighting above the ramp and the building will not be lit after 10 pm or when occupant leaves, which ever occurs last

by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

## **New Application(s)**

### Bowman/44 Plumb Hill Road/Special Permit: Section 13.11/Detached Accessory Apartment:

Brian Neff, Engineer was present to present this application. He submitted a letter of authorization. Mr. Neff discussed the proposed plan for a detached accessory apartment/3 car garage at 44 Plumb Hill Road. He stated that the Inland Wetlands Commission and the Health Department have approved the proposed plan. Ms. Hill recommended that public hearing be scheduled.

Motion: to schedule a Public Hearing on August 24, 2009 to consider the Special Permit application: submitted by Bowman/44 Plumb Hill/Special Permit: Section 13.11/Detached Accessory Apartment, by Mr. Owen, seconded by Mr. Fitzherbert, by 5-0 vote.

## **Other Business**

### Revision of Zoning Regulations: Section 12.14.2/Location of Pool Equipment:

A Public Hearing has been scheduled for August 24, 2009.

### Possible Revision of the Zoning Regulations: Addition of Section 17.5.a.3/Special Exceptions for Section 12.1 under specific circumstances:

The commissioners discussed Mr. Shapiro's memorandum dated 7/13/09(on file in the Land Use Office), regarding draft language for a proposed amendment to section 17.5.a. They made changes to the language in order to clarify and streamline the regulation and to add that historically and culturally significant accessory buildings could also qualify for Special Exceptions for coverage. The Commission agreed that Mr. Shapiro would make the applicable revisions and send them to Ms. Hill.

### Section 6.3.11: Accessory Structures Used to Operate or Maintain a Pre Existing Golf Course:

A public hearing to add this use to the uses permitted by Special Permit in the R-3 District has been scheduled for the August 24, 2009 meeting.

### Discussion Re: Possible Revision of Section 13.9:

The Commission granted Mr. Fitzherbert his request to be able to make a 'statement of rationale' to amend Zoning Regulation, Section 13.9 and then present a motion.

Mr. Fitzherbert stated that inns on town roads are not an issue in the history of the Town of Washington. He stated he is concerned with the timing of the past regulation change and that it is his opinion that this change would not have occurred if a certain application hadn't been submitted. He stated that it is his opinion that the actions of the Commission did not benefit the Town. He stated, "this Town was about agriculture, schools and inns. That was the culture. We no longer have agriculture, but we've worked hard for open spaces and preserving land...The schools have flourished. The Mayflower Inn has operated at a standard higher than in the past, but is very much a part of this culture. And I'm not so sure we looked at the culture of the Town now or in the future when this regulation changed." Mr. Fitzherbert suggested that if the Commission were to amend this regulation it would allow the applicant of an inn to apply for and inn on a town road, as has been the history in the Town of Washington. Mr. Fitzherbert presented the following motion:

Motion: to change the regulation through the proper process to state an inn must have 500 feet of road frontage in an R-1 and R-3 district, by Mr. Fitzherbert, seconded by Mr. Owen.

Mr. Owen stated that he agreed that inns are an important part of the Towns culture and that he had been against changing this regulation to limit them to state highways. He stated that the hearing for this particular inn application was most likely the most thorough hearing any applicant had ever received. Mr. Owen stated the applicant had many opportunities to create a proposal that the Commission could have approved.

Ms. Hill stated she could not think of an inn that was on a town road. Mr. Fitzherbert stated he had a list of them at home.

Ms. Hill stated that the process for the revision of the regulation had started in October of the year before the month of May when said application had been submitted. She disagreed with Mr. Fitzherbert, stating that having an inn at the Swiss Hospitality Institute was not comparable to the inn recently proposed for the Wykeham Rise property because the property's main use had been a school and the inn had been part of the school, and had been proposed to be run by the students and school staff, and was to be located in existing buildings.

There was a lengthy discussion about inns on town roads.

Mr. Owen stated the state highway issue was not a factor in his decision against the application.

Mr. Averill stated that it is important for the Regulations to have a definition of an inn before there are any other revisions regarding inns. There was a lengthy discussion regarding defining an inn.

Several commissioners thought the timing of Mr. Fitzherbert's motion was inappropriate due to the pending legal appeals. Ms. Hill asked if Mr. Fitzherbert if he would be willing to table the motion until they could discuss with Atty. Zizka whether or not it was appropriate to make changes now during an appeal.

Mr. Dubois, Mr. Averill and Ms. Friedman pointed out that the Commission had not debated whether or not inns should be permitted on town roads but had only clarified the existing regulation, which the majority had interpreted as limiting inns to state highways.

Mr. Shapiro stated he did not agree with changing the regulation and that the current regulation was carefully considered.

Mr. Fitzherbert stated that he thought it was important to the Town to bring this up now but he would be willing to table the motion until Atty Zizka was consulted.

Mr. Fitzherbert withdrew the above motion, but said he would bring it up again.

Wykeham Rise, LLC./101 Wykeham Road/Section 13.9/Appeal:

Mr. Owen stated that the mediation between parties ended without an agreement.

## **Privilege of the Floor**

Atty. Hill stated that it is his understanding that motions have been made to terminate the stays for the Wykeham Rise Inn Inland Wetlands Appeal, Zoning Appeal, and a lawsuit over restrictions, but he was not sure if all of them have been granted.

Mr. Brinton, 2nd Selectman, asked for an explanation of why a request to amend the regulation was suspect now and not before. There was a discussion regarding the timing of the regulation revisions.

## **Communications**

### 7/14/09 email from Mr. Reese Owens re: deletion of 12.14.5:

Mr. Reese Owens, Architect, emailed a letter to the Zoning Commission stating that he disagreed with the deletion of regulation 12.14.5. His email explained how the regulation allows for a generator to be located in the least obtrusive area. He requested that section 12.14.5 be reinstated. Mr. Owen stated that it might be possible to change the distances according to the nearest property line. Mr. Owen volunteered to make a graph with proposed distances that would allow someone with more property some leeway. He said he would talk with Mr. Owens and Mr. Darryl Wright and report back to the Commission at the August 24th meeting.

## **Enforcement**

The Zoning Commission read the ZEO Report dated July 27, 2009.

Mr. Charles asked that if administrative approvals could be listed on the website.

Several commissioners thought it was a good idea. Ms. Hill stated she would talk to Mr. Ajello about adding it to the ZEO Report and posting the list on the website.

## **Adjournment**

Motion: to adjourn at 8:45 pm by Ms. Friedman, seconded by Mr. Averill, by 5-0 vote.

Mr. Owen adjourned the meeting.

FILED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk

