

• July 28, 2003

MEMBERS PRESENT: Mrs. Friedman, Mr. Martin, Mr. Owen, Ms. Page

ALTERNATES PRESENT: Mr. Brinton, Mr. Shapiro

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATE ABSENT: Mr. Abella

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Ms. Zinick, Mr. Cable, Mr. Piskura, Mr. McGowan, Mr. Frank, Mr. Mnuchin, Mrs. Hedley, Mr. Owens, Mr. Neff, Mr. Thompson, Ms. Madoff, Press

PUBLIC HEARINGS

Harris/18 Sabbaday Lane/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Mr. Martin called the public hearing to order at 7:30 p.m. and noted Mrs. Friedman would serve as hearing officer this evening.

Ms. Page read the legal notice published in **Voices** on 7/16 and 7/23/03. Members Friedman, Martin, Owen, and Page and Alternate Brinton were seated.

Ms. Zinick, authorized agent, represented the applicant. Mrs. Friedman noted the 7/24/03 letter of authorization in the file. Ms. Zinick reviewed the application for a 912 sq. ft. apartment over a three bay garage. It was noted she had submitted a written statement to explain how the proposed apartment would comply with each requirement in Section 13.11.3 and the certified mailing receipts from the notification of the adjoining property owners. This mailing had not been completed 10 days prior to the hearing as specified in the Regulations.

There was a lengthy discussion regarding whether there was already a detached accessory apartment on the property. Mr. Martin noted the determining factor was intent of use of a building, but whether the building was capable of being used as an apartment. The Commission had to be absolutely sure the cabana on the property could not also be used as an apartment.

Mrs. Connolly, adjoining property owner, voiced concerns. She asked how it would be determined whether the cabana was habitable and expressed her concern about density on the property. She also complained she could see both the cabana and garage from her property and that there was a lot of traffic using the driveway near her property line. Ms. Zinick explained there had been an existing cottage with both heat and a kitchen and that although the owners had originally intended to restore it and use it as an apartment, they had since changed their minds and had converted it to a non habitable pool cabana. She noted the kitchen had been taken out and replaced with a bar area. The bar had a sink, but there was no stove or refrigerator. She also stated electric heat had been installed, but said it was not "hooked up." It was noted the Health and Building department paperwork on the cottage/cabana would be reviewed.

The site plan, "Property Survey," by Mr. Grossenbacher, dated 12/4/01 was reviewed. Mrs. Hill noted there was an existing circular driveway with two entrances onto Sabbaday Lane.

Mrs. Friedman said the hearing would have to be continued in order to provide the adjoining property owners proper notice.

MOTION: To continue the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. and Mrs. Harris for a detached accessory apartment at 18 Sabbaday Lane to August 25, 2003 at 7:30 p.m. in the Land Use Meeting Room. By Mr. Martin, seconded by Mr. Brinton, and passed 5-0.

At 7:48 p.m. Mrs. Friedman continued the hearing to 8/25/03.

Piskura/258 Woodbury Road/Special Permit: Section 13.16/Shop and Storage Use by Contractors and Building Tradesmen

Mrs. Friedman called the public hearing to order at 7:49 p.m. and seated Members Friedman, Martin, Owen, and Page and Alternate Brinton for Mr. Fitzherbert. She noted the hearing could not be concluded tonight because the applicant had not notified his adjoining property owners.

Mr. Piskura, property owner, was present.

Mrs. Hill had inspected the property and reported there were two septic pumpers, a trailer, a dump truck, a backhoe, and various other equipment. She noted the property drops off steeply in back so that if the vehicles were parked in the rear by the barn, they could not be seen from the road. She was concerned, however, that the trailer and dump truck had been parked in the front where they were quite visible from the house to the north. Mr. Martin asked if the vehicles could be parked in the barn. Mr. Piskura said that was his plan, but the barn was not finished and could not be finished until a court case was resolved.

Mr. Shapiro asked if the business was a one man operation. Mr. Piskura said it was.

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

Mrs. Hill noted that in addition to notification of the adjoining property owners, Mr. Piskura was required to supply information on lighting, hours of operation, screening, etc. Mr. Piskura said he would have outside lights on only if he was working outside at night. The location of fencing was noted. Mr. Martin advised Mr. Piskura to work out a planting/buffering plan with his neighbors and Mrs. Hill before the next meeting.

MOTION: To continue the public hearing to consider the Special Permit application: Section 13.16 submitted by Mr. Piskura for Shop and Storage Use by Contractors and Building Tradesmen at 258 Woodbury Road to August 25, 2003 at 7:40 p.m. in the Land Use Meeting Room. By Mr. Owen, seconded by Mr. Brinton, and passed 5-0.

At 8:00 p.m. Mrs. Friedman continued the public hearing to August 25, 2003 at 7:40 p.m.

These public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Martin called the Regular Meeting to order at 8:01 p.m. and seated Members Friedman, Martin, Owen, and Page and Alternate Brinton for Mr. Fitzherbert.

Consideration of the Minutes

MOTION: To accept the 6/23/03 Regular Meeting minutes as written. By Ms. Page, seconded by Mrs. Friedman, and passed 5-0.

Pending Applications

Harris/18 Sabbaday Lane/Special Permit: Section 13.11.3/ Detached Accessory Apartment

Piskura/258 Woodbury Road/Special Permit: Section 13.16/Shop and Storage Use by Contractors and Building Tradesmen

Mr. Martin noted these public hearings had been continued to August 25, 2003.

New Application

Madoff/241 West Shore Road/Special Permit: Section 6.4.6/Fence on the Lake Side of West Shore Road

Mr. Thompson, contractor, was present. He presented photos of the work done prior to obtaining a permit, and said the portion of the fence already installed would be removed the next day.

The proposed location of the fence was discussed. Mr. Thompson said it might be moved behind the existing hedge due to property line concerns and because that would lower the height of the fence as viewed from the road by 2. feet due to the slope of the property. Mr. Martin noted the Commission's main concern was whether the public view of the lake would be blocked. Mrs. Friedman asked if it was an evergreen hedge. Mr. Thompson said it was not.

Mrs. Hill noted a Special Permit application had been submitted and the Health Department had approved it. She said approval by the State Scenic Road Committee was still needed.

It was the consensus to schedule a public hearing for August 25, 2003 immediately following the Piskura hearing. It was hoped a report from the state would be submitted by that date. Mr. Martin requested that Mr. Thompson to bring a letter of authorization from the property owner to the public hearing.

Mayfair Properties, LLC/35 Wykeham Road/First Cut and Special Permit: Section 13.9/Garden Spa and Inn

Mr. Owens, architect, and Mr. Mnuchin, property owner, were present.

Mr. Martin noted a public hearing was required, but asked for a brief overview of the proposal. Mr. Mnuchin noted a five page summary had been written by Mr. Owens and Mr. Martin asked Mrs. Hill to send copies to all Commissioners.

Mr. Owens summarized the application for a spa and associated building with eight guest rooms on property adjoining the Mayflower Inn. The plans, "Mayflower Garden Spa and Rooms," 11 Sheets, by Halper Owens Architects, LLC., dated 7/23/03 were reviewed.

Mr. Owens noted a first cut would be required. He submitted an addendum to the site plan regarding a lot line correction made to 35 Wykeham Road in 1988 and he noted Residential Density Determination forms had been submitted for the first cut application. The entire parcel is 27 acres. Twelve of these would be kept with the 1899 Rossiter house, would continue as residential use, and would not be further subdivided. The remaining fifteen acres would be used for the spa and inn. Access to the residential lot would remain from Wykeham Road. The spa would be accessed from the existing Mayflower entrance and no change to that entrance was proposed.

Mr. Mnuchin stressed the success of the project would depend on the quiet and peacefulness of the site. He also noted the spa would in every way be an extension of the present Mayflower Inn operation and would have the same owners. He added spa use would be limited to guests staying in the guest rooms.

Mr. Owens explained the spa would consist of a reception area, indoor pool, locker rooms, exercise rooms, treatment rooms, and massage and facial facilities to accommodate 20 people.

Floor plans and elevations were briefly reviewed. Mrs. Hill asked if the cupola on the proposed spa building would be less than 25 sq. ft. Mr. Owens said it would.

A site inspection was scheduled for Thursday, July 31 at 4:00 p.m. A public hearing was scheduled for Monday, August 25, 2003 immediately following the Madoff hearing.

Other Business

Revision of the Zoning Regulations/Section 14: Mr. Martin said he had sent Mr. Oley all the material and Mr. Oley was working on it.

Plan of Conservation and Development: Mr. Martin remarked the Commissioners had had an opportunity to attend one of the presentations on Draft #5 and/or to read the draft in its entirety and asked if there were any comments. Opinions differed about whether the draft was too vague or whether it was adequate as a guideline document. Mr. Martin thought the purpose of the Plan was to provide direction without being too specific so that the implementing commission would have the discretion and flexibility to come up with its own statutory response. A few concerns were expressed. Mr. Owen pointed out that although the section regarding enhancement of the village centers sounded good in principle, in reality, much of it would not be possible to accomplish due to the geographical restrictions in these areas. Mr. White was concerned about what he perceived as support for the expansion of the commercial districts at the expense of the residential districts. Mr. Shapiro did not think the Plan clearly explained the concept of the gateway and transitional commercial districts. Most commissioners had serious doubts about establishing an architectural review board because 1) there had been negative feedback from property owners when this idea had been considered in connection with the revision of the Marbledale Business District regulations, 2) several commissioners were philosophically opposed to that degree of regulation, and 3) it would be very difficult to achieve a consensus regarding what was an appropriate design. Mrs. Friedman, however, thought the public would welcome such a review board due to the poor designs of some recently constructed buildings in Town. Other than these concerns, the consensus of the Commission was not to provide

official feedback at this time. The Commission will wait for the next draft before commenting to the Planning Commission.

Revision of the Zoning Regulations re: Enhancing the Protection of the Water Quality of Lake Waramaug: Mr. Martin noted since the last meeting he had met with Mr. McGowan of the Lake Waramaug Task Force, Mr. Frank of the Lake Waramaug Association, and Mr. Berner of the Lake Waramaug Authority about possible revisions to the Regulations. He briefly reviewed his memo from the June 23 meeting.

- Expansion of the R-3 District to include the entire Lake Waramaug watershed: Mr. Martin noted this was a recommendation of the Plan of Conservation and Development and that it had been agreed at the last meeting to revise the Regulations accordingly. The one remaining issue was whether the district boundary line should follow the watershed line exactly or deviate somewhat to accommodate property boundary lines. Mr. Martin recommended following the watershed line as it was natural vs. manmade and was, therefore, less arbitrary. It was agreed Section 3.2 could be waived in this case so that only the portion of a property that was actually within the watershed would have to apply to the stricter standards of the Lake Waramaug District.
- Discouraging "front loading" of waterfront properties: Mr. McGowan and Mr. Frank studied the shoreline properties and found when the setback from the state road right of way, the setback from the lake, the natural configuration of these parcels, and the existing coverage requirements are considered, additional regulations to prevent greater development density along the shoreline would not be needed. The Commission agreed and it was decided not to proceed with this proposal. Mr. McGowan asked if the Commission had consulted its attorney about how coverage on these parcels should be computed; whether 10% was allowed on each side of the road or whether the 10% maximum was the combined total of both parcels. Mr. White said this was unclear especially considering that some properties are one parcel with the state right of way going through and some are two separate parcels. Mr. Martin said he would check with the Town attorney and incorporate the answer in the lot coverage definition.
- Maintenance of the 50 ft. setback from the lake and further requiring a Special Permit for proposed development within 50 to 75 feet of the lake: A draft regulation was reviewed. A copy is attached. Mr. Martin noted Warren had approved a similar regulation and thought it was desirable to have the 95% of the lakefront covered by Washington and Warren governed in the same way. Mr. McGowan recommended Washington increase the required setback to 75 feet and allow development within 50 to 75 feet of the lake by Special Permit if the applicant shows how he will make improvements in stormwater management for the entire lot. He did not think improvements in stormwater management would happen unless the Commission used them as leverage. The Commission agreed with this idea. Mr. Martin asked Mr. McGowan to draft language to accomplish this goal.
- Stricter regulation of docks and floats: Mr. Martin circulated draft #3, which reflected his discussions since the last meeting with Mr. McGowan and Mr. Frank. A copy is attached. Mr. Martin pointed out the area of environmental concern was the point where the dock connects to the shoreline and 5 feet out into the water, and said the proposed dimensional regulations address protection of this area. The following changes to that draft were agreed upon:
 - a) "Used for the berthing of boats" to be deleted from the definition of dock.
 - b) "Such as a pier or wharf" to be deleted from the definition of dock because they are not removable.

- c) If a proposed dock is longer than 40 ft. prior approval by the Lake Waramaug Authority will be required. Mr. McGowan asked the Commission to investigate whether mandatory approval by an outside agency is legal. He thought perhaps it should be made advisory only.
- d 6.3.2.e - Add "existing" to describe the shoreline.
- e) 6.3.2.g - "Or similar modification" will be added to the second sentence.
- f) 6.3.2.h - Change "over" to "elevated directly above" and add "or similar modification" as in g above. Also: In the third sentence, add "and other construction methods that require cutting into the shoreline."
- g) 6.3.2.i - Note the required materials are for both docks and stairs.
- h) 6.3.2.j - Change "profile" to "above water" and add "of docks and floats."
- i) 6.3.2.1 - End of the first line: Change "numbers" to "numerals."
- j) 21.1.25 - Add size limitation of 10' X 10', it is anchored, and that floats can't be anchored closer than 5 ft. to shore to float definition.

Mr. Frank noted that under the proposed regulations, property owners with only 50 ft of shoreline would not be able to have a dock. Mr. Martin noted this has been true under the current regulations for many years. Docks would also be exempt from the 75 ft. setback from the lake.

Grandfathering of docks was discussed. While the Commissioners understood that the size and location of existing docks were grandfathered, they hoped the materials and construction methods specified in proposed sections 6.3.2.d, e, g, and i would be used whenever docks are replaced.

The definition of Boathouse was discussed. It was the consensus to add the following:

- a) No plumbing or plumbing fixtures are allowed.
- b) No toilets are allowed.
- c) The building is not designed for habitation.

Mr. McGowan asked that the Commission give the Lake Waramaug Association time for its members to review and comment on the proposed revisions prior to scheduling a public hearing. Mr. Martin agreed and noted the draft would also be referred to the Inland Wetlands Commission.

Revision of the Zoning Regulations/17.4.b: Last month's ZBA draft and Mr. Owen's revised proposal were reviewed and compared. Mr. Owen said he had attempted to include all of the ZBA's proposed conditions while making the language concise and easy to understand. He

explained the purpose of the new section by saying changes in the way people use their property have made certain nonconforming dwellings less practical in modern terms, that these nonconforming dwellings are usually on small lots on which it is difficult to meet the needs of the property owners, and that by approving the proposed revisions, changes to make these dwellings more livable could be approved without the property owner having to prove a hardship. Mr. White, ZBA Chairman, noted the Zoning Commission had originally suggested revisions to allow the ZBA to deal with setback issues, but noted 90% of the applications for setback variances also require coverage variances. He asked that coverage also be addressed in Section 17.4.b. Mr. Martin noted the two main questions to be resolved were 1) would this section pertain to nonconforming accessory buildings as well as nonconforming single family dwellings; and 2) would flexibility in coverage as well as setbacks be included. He said the Zoning Commission originally had not included coverage because it had already increased the maximum coverage permitted by 50% for lots less than 2 acres. Also coverage regulations had been instituted for critical reasons including preservation of rural character and protection of water quality. After a lengthy discussion it was the consensus to include coverage in the proposed ZBA Special Exception process only for nonconforming single family dwellings that meet specific criteria because they have a much higher priority than accessory buildings. It was also agreed to allow the ZBA to grant Special Exceptions for setbacks for both nonconforming single family dwellings and for nonconforming accessory buildings with historical or cultural significance. The draft language will be finalized for review at the next meeting. Mr. Martin noted the proposed revisions to this section were substantial and so should be reviewed again by the Town attorney. He also noted referrals to the Planning Commission and NW Ct. COG were required prior to action by the Zoning Commission. He concluded by noting the cooperation between Zoning and ZBA had resulted in substantial improvements to this section of the Regulations.

Revision of the Zoning Regulations/Definition of Coverage: Mr. Owen's proposed revision from the June meeting was used as the basis for discussion. Mr. Martin noted the main issue remaining was whether pedestrian walkways should be included in coverage calculations. The current regulations state all traveled surfaces are counted. Mr. Owen proposed walkways under 3 feet wide, no matter how they are constructed, be omitted from the coverage calculations unless they are connected to another structure such as a walkway around a swimming pool. His rationale was that they are difficult to measure, narrow walkways do not significantly impact water absorption, to date no one has abused the use of walkways, they are not an aesthetic issue, and they are difficult to enforce. The Commissioners discussed whether to follow Mr. Owen's recommendation or to only discount walkways if they were permeable. It was the consensus that only permeable pedestrian walkways such as gravel, crushed stone, or random stones set in grass would be excluded from the coverage calculations. All impervious walkways would be included in the determination of coverage. A revised draft will be prepared for the next meeting.

Revision of the Zoning Regulations/Definition of Setback: It was the consensus of the Commission the ZBA proposal was acceptable as is.

Draft Scenic Road Ordinance: Copies of the draft document were circulated. Mr. Martin advised the Commissioners to send their input to Mr. Gitterman.

MOTION: To adjourn the meeting. By Ms. Page. Mr. Martin adjourned the meeting at 11:10 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

6/11/2015

Minutes: Zoning Commission, 2003 - Washington, Connecticut

Janet M. Hill, Zoning Enforcement Officer