

August 22, 2011

Present: David Owen, Lou Abella, Gary Fitzherbert, Ralph Averill

Alternates Present: Andy Shapiro

Absent: Ray Reich, Harry Wyant, Alt., A.J. Dubois, Alt.

Staff Present: Janet Hill, Shelley White

Others Present: Mr. Ebner, Ms. Martin-Ebner, Ms. Hock, Mr. Fiedorowicz, Mr. Syme, Mr. Sabin, Landscape Architect, Mr. Szymanski, Engineer, Atty. Fisher, Mr. Klauer, Mr. Rogness, Mr. & Mrs. Solomon, Mr. & Mrs. Peacocke, Mrs. Federer, Mr. Solley, Ms. Giampetro, Mr. Hyde, Press, Residents

Mr. Owen called the meeting to order at 7:34 p.m.

Seated: Mr. Owen, Mr. Abella, Mr. Fitzherbert, Mr. Averill, Mr. Shapiro, Alt. (for Reich)

PUBLIC HEARING(S)

Shepaug Valley Properties, LLC/27 Mt. Tom Road/Special Permit: Section 17.8/Expansion of Nonconforming Use/Camp:

Ms. Hill read the legal notice published in Voices on August 10 and August 17, 2011 and the list of documents in the file. Mr. Ebner and Ms. Martin-Ebner, property owners, were present to discuss this application with the Commission. Mr. Ebner stated that they would like to utilize the adjacent land that they bought several years ago to expand the operations of the existing Camp Chinqueka. The Commissioners and the Ebners looked at the map titled First Cut Map, prepared for Shepaug Valley Properties, LLC, by Charles Farnsworth, dated September 30, 2008. The Ebners discussed the location of the proposed buildings and sports fields and how they would be used for the day camp program. Ms. Martin Ebner stated that the current camp is an all girls overnight camp. Ms. Martin Ebner stated that the red buildings indicated on the First Cut Map are part of this application and the blue buildings are part of a future phase. She stated that she estimates an enrollment of 75-100 campers in the first year and she discussed the Monday through Friday, 9a.m. to 4 p.m. schedule for the day camp. Ms. Hill stated that she is concerned with the proposed athletic field so close to the residential zone. Ms. Martin- Ebner stated that the property becomes very steep and there are wetlands so it is difficult to find a large enough, level area for the fields. She stated there would not be a P.A. system at the day camp or outdoor lighting.

Mr. Syme was present to represent the Stephens Family, adjacent landowners. Mr. Syme looked at the First Cut Map and stated that the Ebners and Camp Chinqueka have been good neighbors. Ms. Hock and Mr. Fiedorowicz are adjacent landowners and were present. Mr. Fiedorowicz stated that they own sub dividable land that abuts the southern boundary of the Ebner's property. He stated that they are concerned that the expansion of the camp would devalue their property and that the sports field on the southwestern part of the property is close to the property line and they are worried about the noise. Mr. Fiedorowicz, the Commission and the Ebners discussed the location of the kickball field and the topography of the property. The Ebners agreed that they would move the kickball field a little further from the property line and indicated the location by hand on the First Cut Map and they stated that vegetative screening would be planted. Mr. Ebner explained the location and purpose of the proposed buildings to Ms. Hock.

Mr. Owen stated that the Inland Wetlands Commission has received an application for this plan and cannot take action until September 14, 2011 at the earliest so the Zoning Commission cannot act on this Special Permit application until they receive the report from the IWC. The Commission agreed to close the Public Hearing and will act on this application at the next Zoning Commission Meeting on September 26, 2011, Land Use Meeting Room, Bryan Memorial Town Hall at 7:30.

There were no further questions or comments.

Motion:

to close the Public Hearing for Shepaug Valley Properties, LLC/27 Mt. Tom Road for Special Permit: Section 17.8/Expansion of Nonconforming Use for a Camp, by Mr. Fitzherbert, seconded by Mr. Abella, passed by 5-0 vote.

Wykeham Rise, LLC/101 Wykeham Road/Special Permit: Section 4.4.10/School:

Ms. Hill read the legal notice published in Voices on August 10 and August 17, 2011 and the list of documents in the file and noted the addition of an email from Ms. Purnell and thirty-one return receipt green cards. Mr. Klauer summarized his letter to the Zoning Commission dated July 20, 2011 (on file in the Land Use Office) explaining that Wykeham Rise LLC made changes to the approved Special Permit that was granted on December 27, 2010. He stated that he feels these improvements are substantial enough to warrant a new application.

Atty. Fisher stated that in April of 2010 the Appellate Court ruled that in cases such as a special permit requiring a public hearing that alternates of a commission couldn't participate in the deliberations. He stated that, "to be on the safe side," he is hoping that there are no procedural problems that could cause a Right of Appeal later on. Mr. Owen stated that the Commission did take the position that alternates were allowed to deliberate until the Court's decision in April. Ms. Hill stated that the point is that alternates are not allowed to participate after the Public Hearing is closed unless they are seated. Atty. Fisher stated that with the last application there was participation during deliberations by two alternates and he would like to prevent any issues with this application in that respect.

Mr. Owen reminded everyone present that this is a new application and everything that Wykeham Rise, LLC. is proposing should be included in this application and materials from the last approved application do not apply to this current application. Mr. Averill asked if the previous approval is still valid. Mr. Owen confirmed that it is. Atty. Fisher stated that this application is a scaled down version of the approved application and if this application is approved and there are no appeals the first application will be withdrawn.

Mr. Szymanski, Engineer stated that he was present to represent Wykeham Rise, LLC. He displayed the map titled Overall Site Development Plan with Previously Approved Site Plan Overlay for Mathew & Erika Klauer, by Arthur H. Howland and Associates, P.C., dated July 8, 2011 and explained the differences of this layout compared to the layout of the previously approved Special Permit.

Mr. Sabin, Landscape Architect was present to review the map titled Planting Plan for Mathew Klauer, sheet PL.1, by Arthur H. Howland and Associates P.C., dated July 8, 2011 with revision dates of 7/22/11 and 8/22/11. He stated that they have relocated some conifers and added 15 spruce trees and that the modifications are not significantly different from the previously approved Planting Plan.

Mr. Szymanski stated that they would respond in writing to each point of Ms. Hill's Administrative Report and they are waiting to hear from Land Tech and will forward that information to Ms. Hill so that she may submit the plans to the Fire Marshal. Mr. Szymanski stated that since Dormitory #1 will have a sprinkler system they are not required to plan emergency vehicle access and he will get that in writing from the Fire Marshall for clarification.

Mr. Owen stated that there is a lot of material that the Commission needs to review. Mr. Klauer confirmed that there is a letter accompanying the application that states the proposed school's academic policy, academic calendar and the curriculum. Mr. Szymanski stated that they are in communication with the State regarding the septic system.

Point of order: Mr. Solley asked if the timeline of the Public Hearings and the deliberations on this particular application are going to be complete before Election Day and when Mr. Owen's last meeting would be as Chairperson. Mr. Owen stated that his last meeting would be October 24th. Mr. Solley stated that he sees that this could become problematic procedurally for this application, as there would be new members and a new chairperson. Mr. Owen stated that this would be a question for the Town Counsel and he believes that the new member(s) would have to review the records to bring themselves up to speed with the application.

Mr. Solomon submitted a letter, with attachments dated August 22, 2011 from Atty. Mark Branse who is representing the Solomons and some of the other abutting property owners. He stated that on page 3 and 4 of Mr. Klauer's application letter states why this application satisfies the criteria of a Special Permit and there were two points that he had questions about. Mr. Solomon stated that regarding section 13.1.b.8 of the Zoning Regulations under Standards that Wykeham Rise, LLC has stated that, "Wykeham University is continuing the approved use of a school by special permit. Wykeham University will likely have adult students, older than the student body of the Swiss Hospitality Institute. Consequently, we expect Wykeham University will not produce such nuisances as noise, fumes, odor, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line." Mr. Solomon stated that Mr. Klauer used the words from the Zoning Regulation to satisfy the Commission and he used phrases such as 'likely to have adults,' 'consequently,' and 'expect' and he feels that the Commission should not be satisfied by just using the wording from the Zoning Regulations and he questioned why the requirement exists.

Mr. Solomon's second point was that Mr. Klauer's response to requirement 13.1.b.2 was that "the buildings will be distributed across the entire property." He stated that Mr. Klauer only addresses the location of the buildings and not all of the points of the requirement. Mr. Solomon stated that he wonders why the bar is set so low and that these requirements are not addressed. He stated that the other requirements are discussed in Atty. Branse's letter and asked that the Commission read it.

Mrs. Solomon submitted a letter from Ms. Purnell.

Mr. Owen stated that the Commission would like to have larger scale architectural drawings. Mr. Szymanski stated that they would.

Ms. Peacocke stated that this is a new application and that the applicant seems to be drawing on information from the previous application and she is questioning the impact of outstanding litigation and asked if the materials from the previous application would be incorporated into this application. Mr. Owen stated that materials from the previous application would not be incorporated into this application and this is a separate, new application. He stated that if there are specific parts of the approved application that are part of this application then it would

need to be included with this application and the Commission would not be drawing from any material from the previously approved application file.

Mr. Szymanski requested that if the Zoning Commission has any questions of comments that they forward them to Ms. Hill so that they may be addressed in time for the next meeting.

There were no further questions or comments.

Motion:
to continue the Public Hearing for Wykeham Rise, LLC/101 Wykeham Rise/Special Permit: Section 4.4.10 for a school, at the next regularly schedule Zoning Commission Meeting on September 26th at 7:30 in the Land Use Meeting Room at Bryan Memorial Town Hall, by Mr. Owen, seconded by Mr. Shapiro, passed by 5-0 vote.

REGULAR MEETING

Consideration of the Minutes

The minutes of the July 25, 2011 Zoning Commission Meeting were considered.

Motion:
to accept the Zoning Meeting Minutes of July 25, 2011, as submitted, by Mr. Owen, seconded by Mr. Shapiro, passed by 5-0 vote.

New Application(s)

There were no new applications.

Other Business

Update: Parking at the Community Table/223 Litchfield Turnpike:

Ms. Hill stated that she Atty. Kelly had asked for some time to review the situation with the his client. Ms. Hill distributed a copy of Atty. Zizka's response to the questions the Commission had regarding this issue.

Mr. Owen suggested that the Community Table come to the next Zoning Commission Meeting and try to work out something with the parking but if this is not possible the Commission would have to review the Special Permit and see if they are in violation of their approval and require steps be taken to improve the parking. The Commission agreed that they would like to hear from Atty. Kelly and the Community Table.

Mr. Hyde stated that he feels it would be beneficial to the Commission to obtain a copy of the shared parking agreement with Mr. Dobson.

Mr. Hyde discussed the footpath from Wilbur Road to the Community Table.

Mr. Owen stated that he hopes that the Community Table would come back to the Zoning Commission with a revised parking plan and that different solutions could be discussed.

Possible Revision of the Zoning Regulations – Compact Sized Parking Spaces: Mr. Fitzherbert stated that the Zoning Regulations do not include compact car parking spaces and that parking space dimension requirements vary from town to town. He stated that compact car spaces allow for other cars to come through the parking lot and allow for more space. Mr. Fitzherbert stated that he would work on language that would provide for compact parking spaces in the Zoning Regulations for review at the next meeting.

Update Plan of Conservation and Development:

Mr. Shapiro stated that the POCD Subcommittee would be meeting the last week in September and he has been asked to provide a report from the Zoning Commission that includes additions, deletions and modifications to the current POCD. There was a brief discussion regarding the process of revising the POCD. Ms. Hill stated that a big consideration is money and that a new POCD would probably cost around \$100,000.00. She stated that getting input from the other commissions is phase one of the revision process. Ms. Hill stated that they should forward their comments to her by September 16th.

Privilege of the Floor

There were no comments from the public.

Communications

There were no communications to discuss.

Zoning Enforcement

The Commission considered the Zoning Enforcement Report dated 8/22/11.

Adjournment

Motion:

to adjourn at 9:30. by Mr. Owen, seconded
by Mr. Fitzherbert, passed by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk