

August 27, 2007

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

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wadelton

ALTERNATE ABSENT: Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Freer, Mr. Henisz, Mr. Charles,

Atty. Kelly, Mr. Papsin, Mrs. Matthews, Press

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

PUBLIC HEARINGS

Henisz/52 West Church Hill Road/Special Permit: Section 4.4.15/ General Home Occupation/Psychotherapy Office

Mr. Owen called the public hearing to order at 7:30 p.m. Mrs. Friedman read the legal notice published in **Voices** on 8/15 and 8/22/07. Mr. Owen read the list of documents in the file and the 8/27/07 ZEO Report.

Mrs. Friedman asked if any exterior alterations to the dwelling would be needed to put in the office. Mr. Henisz said, no, this section of the house was once a maid's quarters with a separate entrance.

Mrs. Hill noted she had a phone call from an adjoining property owner who complained that it would not be safe to have additional traffic on West Church Hill Road. Mr. Owen noted the applicant would have only two or three patients a day, two or three days a week.

There were no comments from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.15 submitted by Mr. Henisz for a psychotherapy office at 52 West Church Hill Road. By Mr. Owen, seconded by Mr. Fitzherbert, and passed 5-0.

Mr. Owen closed the hearing at 7:36 p.m.

Stiteler.262 West Shore Road/Special Permit: Section 6.4.9/ Boathouse

Mr. Owen called the hearing to order at 7:37 p.m. Mrs. Friedman read the legal notice published in **Voices** on 8/15 and 8/22/07. Mr. Owen

read the list of documents in the file and the 8/27/07 ZEO Report, which noted Health and Inland Wetlands approvals were needed as well as a variance. Mr. Ajello noted the date given for the emails in the file was incorrect.

Mr. Ajello advised the applicant that an accurate map showing the exact the location proposed for the boathouse was required in order to resolve the setback issue.

A lengthy discussion followed regarding whether the setback should be measured from the property line or from the state right of way. Mr. Ajello pointed out that the definition of setback in Section 21.1.56 refers to the measurement from the property line or the right of way line and that since the property is only 40 feet wide, it could not meet the front yard setback requirement. That was the reason he thought a variance was required. Atty. Kelly noted the Stiteler property is one lot with frontage on Tinker Hill Road and so did not think the front yard setback requirement would apply. He questioned why the term, "right of way," had been inserted into the definition of setback. The map, "Site Analysis Plan," by Mr. Alex, dated 6/07 was reviewed. Atty. Kelly noted the location of the lake shore portion of the property where the 8' X 8' boathouse was proposed and the state right of way, which he said the state did not own. Atty. Kelly also questioned whether the rear setback would be applied because he said the rear line was a point in the middle of the lake to which all the lake shore properties run. If the Commission holds that there must be a setback from the right of way, he continued, what setback would be applied since it would not meet any of the setback definitions. He asked the Commission to consult with its attorney. Mrs. Friedman noted the Commission had consulted about setbacks in the past and had been advised that when the road bisects a property, it is considered two separate parcels. Atty. Kelly stated he could draw up a construction plan that would satisfy the Building Dept. and could meet the setback from a rear boundary line if the Commission required it, but agreed if a front yard setback was required, he would need a variance. Mr. Owen said he would consult with the Commission's counsel.

Atty. Kelly circulated his 6/12/07 letter to the Inland Wetlands Commission with attached photo of the proposed shed and building specifications. He noted the beach property was a sensitive area and the proposed boathouse would be as non invasive as possible. He explained that the reason no specific location had been proposed was because the applicant was willing to be flexible and work with the Commissions to find the best location. He also noted that although the Building Dept. had informed him that anchoring the building with augers and a bike chain would be sufficient, the applicant would be willing to put it on cement blocks or on a wood frame.

Atty. Kelly noted he could immediately apply for a variance for front yard setback or wait for advice from the Commission's counsel. Mr. Ajello said a third option would be to petition for an amendment to the Regulations.

Mrs. Friedman read the 8/27/07 letter from Mrs. Weeks against the application.

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

MOTION: To continue the public hearing to consider the Special Permit application: Section 6.4.9 submitted by Mr. and Mrs. Stiteler for a boathouse at 262 West Shore Road to 7:30 p.m. on Sept. 24, 2007 in the Land Use Meeting Room. By Mr. Averill, seconded by Mr. Owen, and passed 5-0

At 8:12 p.m. Mr. Owen continued the public hearing to 7:30 p.m. on Sept. 24, 2007.

Freer/246 Woodbury Road/Special Permit: Section 13.11/Detached Accessory Apartment

Mr. Owen called the hearing to order at 8:13 p.m. Mrs. Friedman read the legal notice published in **Voices** on 8/15 and 8/22/07. Mr. Owen read the list of documents in the file and the 8/27/07 ZEO Report.

Mr. Freer, property owner, reviewed his application for a detached accessory apartment on the second floor of the existing barn. He noted currently there is storage above the lower level, which serves as a garage. The site plan was studied. He noted the barn does not now use the same driveway as the main dwelling; it has a separate existing driveway on the right of way to an interior lot. The ZBA approved a variance to allow the barn/apartment to continue to be served by this separate 700 ft. long driveway. Mr. Owen asked if there was a reason the driveway could not be connected to the main dwelling's driveway. Mr. Freer said it would be a steep grade.

Mr. Owen read Section 13.11.1, which states that the intent of the accessory apartment regulations is not to allow a second substantial dwelling on an undivided parcel. He noted that one purpose for the requirement that the dwelling and the detached apartment share a single driveway is to ensure their direct connection. He suggested that because a shared driveway is at the heart of the accessory apartment requirements and that no one is entitled by right to a detached apartment, the ZBA had, in effect, granted a use variance, which is not legally permitted.

Mr. Ajello stated the ZBA had been entitled to grant the variance, listed some of the factors he considered hardships, and noted the driveway exists; it was not being built specifically for the apartment.

Mr. Owen thought the separate driveway, in effect, resulted in the apartment functioning as a separate lot. He suggested the hearing be continued so that he could discuss the issue with Atty. Zizka. He also noted he would like to discuss which regulations the ZBA is allowed to vary and what protections the Zoning Commission might adopt to ensure the intent of its Regulations is carried out. Mr. Averill agreed that the Commission should do careful research in terms of policy.

MOTION: To continue the public hearing to consider the Special Permit application: Section 13.11 submitted by Mr. Freer for a detached accessory apartment at 246 Woodbury Road to Sept. 24, 2007 in the Land Use Meeting Room - hearings begin at 7:30 p.m.; this hearing is second. By Mr. Owen, seconded by Mr. Averill, and passed 5-0.

At 8:34 p.m. Mr. Owen continued the hearing to Sept. 24, 2007 in the Land Use Meeting Room.

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

REGULAR MEETING

Mr. Owen called the Regular Meeting to order at 8:35 p.m.

Consideration of the Minutes

The 7/23/07 Regular Meeting minutes were accepted as corrected.

P. 2: Under 2 Wheaton, LLC.: 7th line: "8 ft. further" should be "8 ft. closer."

P. 3: Under Revision of the Zoning Regs: 10th line: Add: "whichever is less" after "dwelling."

MOTION: To accept the 7/23/07 Regular Meeting minutes as corrected. By Mrs. Friedman, seconded by Mr. Fitzherbert, and passed 5-0.

Pending Applications

Henisz/52 West Church Hill Road/Special Permit: Section 4.4.15/ Psychotherapy Office

MOTION: To approve the Special Permit application: Section 4.4.15 submitted by Mr. Henisz for a psychotherapy office at 52 West Church Hill Road. By Mrs. Friedman, seconded by Mr. Owen, and passed 5-0.

Freer/246 Woodbury Road/Special Permit: Section 13.11/Detached Accessory Apartment

Stiteler/262 West Shore Road/Special Permit: Section 6.4.9/ Boathouse

The public hearings to consider these two applications were continued to Sept. 24, 2007 in the Land Use Meeting Room. Stiteler will begin at 7:30 p.m. and Freer will begin immediately following.

Other Business

Final Report/2006 Senior Housing Survey: Mr. Hileman, Chairman of the Housing Commission, reported that the Housing Commission's purpose is to study and analyze the housing needs of the Town. To this end, it had conducted a townwide survey regarding senior housing with a good percentage of residents responding, although 82% were over the age of 50. Mr. Hileman determined from the survey that 1) there was broad support for more senior housing options in Town and 2) there was significant support for affordable units in any senior housing development. The Housing Commission report concluded that 1) no direct public funding is necessary for senior housing initiatives in Washington and 2) the Town of Washington needs to reexamine and revise its land use regulations to permit senior housing in the village centers. Mr. Hileman thought the land use commissions should take a more proactive approach. A lengthy discussion followed. Mr. Owen pointed out that the Zoning Commission had to discuss other related issues, too, when it considers senior housing. First, there are other groups in Washington with other priorities and the Zoning Commission represents them all. Second, the Town must decide how much growth is acceptable before coming up with a housing plan. What target population is desirable? Third, the Zoning Commission is charged with preserving the rural character. Mr. Hileman said he did not mean to suggest hundreds of new units, but perhaps 12 to 20. And he thought a housing plan should be drawn up for the Depot first because due to its geographic constraints it could accommodate only a limited number of units. He said he would soon consult with the Planning Commission about drafting a housing plan. Mr. Owen was not sure that any new housing units should be built exclusively for seniors. He noted there is also a need for housing for young families and for people who would volunteer their services in Town. He thought there was already the necessary framework in place so that relatively simple

changes could be made to the existing Depot Business District regs to allow some form of denser senior or other moderate priced housing if the public was receptive to the idea.

Privilege of the Floor

Mrs. Matthews asked if Myfield, LLC, would be discussed. She was informed that the applicant had withdrawn the request to modify its existing permit. It was noted Myfield had installed road shoulders of crushed stone instead of pervious pavers and should include this when it requests that its permit be modified.

Other Business

Revision of the Zoning Regulations

Accessory Apartments: Mrs. Friedman noted possible revisions to the accessory apartment regulations had been discussed at the last meeting and the only point of agreement at that time had been that a property should be allowed either a detached or an attached apartment, but not both. She suggested that if the maximum size was to remain at 1200 sq. ft., that figure should include all decks, screened porches, etc. so it would be more difficult for ZBA to vary the size. Mr. Charles noted that just three years ago the Zoning Commission had studied this issue, which resulted in the adoption of the current regulations. He noted a single family house on a 10 acre lot could have many more bedrooms and much more coverage than a modest home with both a detached and an attached accessory apartment, and so he did not see the rationale for the proposed change. He also thought revising the accessory apartment regs in this way would encourage the subdivision of properties owned by the "rich," who needed both a guest house and a caretaker's house. Mr. Owen advised Mr. Charles that the Commission was discussing revisions to try to keep people from abusing the regulations, proposing apartments nearly the same size as the main dwelling, for example. Mrs. Friedman pointed out that when she studied the regs in other towns, she found that none permitted both an attached and a detached apartment on the same lot. Mr. Charles thought this might be because Washington is the only town with soil based zoning. Mr. Owen and Mr. Fitzherbert said Mr. Charles had raised interesting points, which would be considered during the ongoing discussion.

Privilege of the Floor

Mr. Papsin asked what was happening on Gunn Hill Road; the Cherniske house had been demolished. Mr. Ajello said the owner had permits for an addition and remodeling, but had found the foundation was unsound. He has plans to reconstruct it, possibly in a location where it will become a conforming structure. Mr. Papsin asked how this owner was allowed to construct 6 ft. high walls. Mr. Ajello responded the regs allow walls up to 8 ft. along property lines. He also noted that it is difficult to regulate the appearance of walls and fences.

Revision of the Regulations

Stone Walls and Fences: Mrs. Hill noted the current definition of Building states that any structure more than 8 ft. high shall be considered a building. She suggested that by revising this down to 3 or 4 ft. high, fences higher than 3 or 4 ft. would have to meet the setback requirements. The result would be that the out of character walls and fences that have been erected recently along the roads would have to be located at least 50 feet back from the front boundary line. The commissioners supported this idea and asked her to draft formal language to

be considered at the next meeting.

Docks: Mr. Ajello advised the Commission that he was having a problem with the expansion of pre existing concrete docks on Lake Waramaug. Mr. Owen stated these docks were non conforming structures, which were not permitted to expand. Therefore, Mr. Ajello should order that any additions to these docks be removed. Mr. Ajello recommended that since the definition of Dock has been revised, the Commission should take another look at these regulations to make sure that they govern all docks and not just new docks that meet the revised definition. This matter will be discussed again at a future meeting.

Helipads: Mr. Ajello recommended the regs be revised to prohibit the activity of landing an aircraft in addition to the actual physical structure of a helipad. He said this would prevent one time landings at private residences. Mr. Fitzherbert and Mr. Owen thought currently the Selectmen's Office handled requests for permission for a one time landings. Mr. Fitzherbert noted helipads are regulated by the state. Mr. Owen noted that Helipad is not defined in the regs and asked Mr. Ajello to draft a regulation to be considered at the next meeting.

Enforcement

Moore/25 Litchfield Turnpike: Mr. Ajello reported that Mr. Moore is slowly coming into compliance with the order issued by the Inland Wetlands Commission. He will soon write to him regarding the ongoing zoning violations on the property.

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

Mr. Owen adjourned the meeting at 10:17 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator