

## August 28, 2006

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

MEMBER ABSENT: Mr. Martin

ALTERNATES PRESENT: Mr. Abella, Mr. Shapiro

ALTERNATE ABSENT: Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Aragi, Press

Mr. Owen called the Regular Meeting to order at 7:31 p.m. and seated Members Averill, Fitzherbert, Friedman, and Owen and Alternate Shapiro for Mr. Martin.

MOTION: To add the following subsequent business to the agenda: 1) New Applications: Dobson/255 New Milford Turnpike/Special Permit: Section 9.5.1/Storage Barn and 2) Revision of the Zoning Regulations/ Section 6.6/Docks. By Mr. Owen, seconded By Mrs. Friedman, and passed 5-0.

MOTION: To add a discussion of outdoor wood boilers under Enforcement. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

Consideration of the Minutes

MOTION: To accept the July 24, 2006 Regular Meeting as written. By Mr. Owen, seconded by Mr. Averill, and passed 5-0.

New Applications

### **Washington Cemetery Association/17 Parsonage Lane/Special Permit: Section 4.4.2/Storage-Administration Building**

A public hearing was scheduled for Monday, September 25, 2006 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

### **Johnson/10 Lower Church Hill Road/Special Permit: Section 13.11.3/ Detached Accessory Apartment**

Mr. Ajello noted the existing dwelling will be converted to the detached apartment and a new primary dwelling constructed. A public hearing was scheduled for September 25, 2006 in the Land Use Meeting Room, Bryan Memorial Town Hall immediately following the first hearing, which begins at 7:30 p.m.

**Aragi/9 Wilbur Road/First Cut**

Mr. Aragi, owner, was present. The application proposed a 3.073 acre lot containing the existing house and a remaining 31.53 acre parcel. It was noted he intended to subdivide the 31+ acres in the future.

Mr. Owen read the 8/28/06 ZEO Report and noted there were no outstanding issues.

MOTION: To approve the application for a first cut at 9 Wilbur Road submitted by Mr. Aragi. By Mrs. Friedman, seconded by Mr. Shapiro, and passed 5-0.

**Dobson/255 New Milford Turnpike/Special Permit: Section 9.5.1/ Storage Building**

It was noted this application had been withdrawn after the last meeting, but had since been approved by the Health Department and had been resubmitted.

Because he was asking for an increase in coverage to 35.8%, Mrs. Friedman asked if the applicant would address all of the criteria listed in Section 9.6. Mr. Ajello said these would be discussed at the public hearing.

The Commissioners will inspect the property on their own prior to the next meeting.

A public hearing was scheduled for Monday, September 25, 2006 in the Land Use Meeting Room, Bryan Memorial Town Hall. It will be the third hearing that evening. The hearings begin at 7:30 p.m.

**Other Business****Tracy/47 Rabbit Hill Road/Special Permit: 13.16/Shop and Storage Use by Contractors and Building Tradesmen/Request for Renewal**

Mr. Owen noted the applicant was faithful in reapplying for his permit as required. Mr. Ajello stated he found no problems on site when he inspected the property.

MOTION: To approve the renewal of the Special Permit: 13.16/Shop and Storage Use by Contractors and Building Tradesmen issued to Mr. Tracy at 47 Rabbit Hill Road. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

**Zoning Fine Ordinance**

The draft Zoning Fine Ordinance, written by Mr. Shapiro and reviewed by Atty. Zizka, had been previously mailed to the commissioners. Mr. Owen noted that Washington had a similar ordinance for the Inland Wetlands Commission and that when adopted this ordinance would increase the effectiveness of the Town's zoning enforcement efforts.

Mr. Shapiro said he had used the Inland Wetlands ordinance as his model and he explained the significant changes he had made to it.

Mrs. Friedman asked if Section 19 of the Zoning Regulations should be deleted if the ordinance is adopted. It was decided to wait to determine whether this should be done until after the ordinance is approved at a Town Meeting.

Mr. Shapiro circulated his 8/28/06 memo to the Commission regarding how the ordinance would work. It was noted the maximum fine would be \$150 per day, but that this would not be levied unless other attempts to resolve the violation had been unsuccessful and the violator had been clearly warned that the fine would accrue at \$150 per day for as long as the violation continued.

Mr. Owen noted that due to the possibility of triple damages against the ZEO if he were to issue a frivolous fine, the Zoning Commission would adopt the policy that it would approve the issuance of fines and the ZEO would then act under its instructions. This policy had been OK'd by Atty. Zizka.

Mr. Ajello advised the Commission that when a fine was issued, the Enforcement Order would be attached to the Town Land Records.

Mr. Shapiro noted the state statutes allow fines of up to \$150 per day. He asked the Commission if it wanted to impose the maximum fine no matter what the violation. Mr. Ajello thought the maximum fine would be justified because there would have been no results from the preliminary enforcement efforts and it would be difficult to differentiate between the severities of different types of violations. It was the consensus to keep the fine at \$150 per day and to use it as a last resort.

Mr. Shapiro noted again that Atty. Zizka had approved the proposed language. The minutes will indicate that the Commission is requesting the Board of Selectmen to place the approval of the Zoning Fine Ordinance on the agenda of the next Town Meeting. The Commissioners thanked Mr. Shapiro for his work.

### Revision of the Zoning Regulations

**Ridgeline Protection:** Mr. Owen noted it was easy to understand the theoretical desire to control ridgeline development, but difficult in a town with topography such as Washington's to actually draft regulations to do so. He read Mrs. Frank's letter dated 8/16/06, which stated the Conservation Commission had done all it could to promote ridgeline protection regulations and now urged Zoning to be proactive in implementing the recommended revisions. Mrs. Friedman noted the provisions, which had previously been discussed, would not prohibit the development of any parcel, but would regulate the location and materials used. She did not think this was too much regulation or that the demands on the applicant would be extreme. Mr. Owen thought the site plan requirement that had been previously discussed would be too expensive and time consuming for single family dwellings. He asked if there might be a way to accomplish the objectives without site plan review. It was noted survey maps are not currently required for zoning permits for single family dwellings. Mr. Ajello suggested that if the proposed house was set back from the precipice or from slopes exceeding 25% at least the same distance as its height, it would be barely visible from below. He said most of the public views in Town were from low lying areas looking up. Mr. Owen noted there are many hills that have no slope at the top. Mrs. Friedman thought the public was bothered by development where from a distance the outline was visible against the sky. Mr. Owen noted whatever standards were established, they must be logical and be universally applied throughout Town. Mrs. Friedman agreed to work on draft language in the future.

**Residential Lighting:** The discussion began with Mr. Martin's proposed revisions to Sections 4.3.8, 5.3.6, and 6.3.6 regarding lighting for outdoor sports courts. Mr. Martin was unable to attend the meeting, but Mrs. Hill reported he had welcomed comments, had noted there are currently strict regulations for accessory uses, but none for lighting, which he considered to be a loophole, and had urged the scheduling of a public hearing as soon as possible. Mrs. Friedman and Mr. Shapiro thought the idea had been to allow only unlit outdoor courts because the lights would be too bright for residential districts and could be seen from both neighboring properties and from miles away, while Mr. Martin's proposal would have permitted associated illumination that did not extend beyond any lot line. Language that would include pool lighting and to allow it only when the pool or outdoor sports court was in use was considered, but the consensus was this would be difficult to enforce. The question was raised regarding how the Commission would differentiate between a basketball court and a hoop hanging on a garage, which could be a problem if it were lit. It was agreed that instead of proceeding with the sports court language, Mr. Owen would immediately begin work on comprehensive residential lighting regulations, which would include consideration of outdoor sports courts. Mrs. Friedman asked that landscape lighting be addressed, also.

**Petition from The Washington Club to Revise Section 4.3 of the Zoning Regulations:** It was noted the 8/25/06 letter from Mr. Schoon, president of the Washington Club, had been received asking the Commission to allow under Section 4.3, Uses Permitted, "accessory structures associated with the operation of an existing golf course." Mr. Owen noted golf courses are currently not a permitted use in the R-1 District and so each time The Washington Club wants to make a minor improvement at the golf course, a variance is required. He reminded the Commission the Club had previously petitioned to make golf courses a permitted use in the R-1 District, but the Commission had not thought this was necessarily a good idea. Mrs. Friedman suggested these accessory structures be permitted by Special Permit under Section 4.4. There was a lengthy discussion concerning what uses/structures were associated with a golf course because it was noted the Club had considered tennis courts and some kind of restaurant in the past. It was thought that the Special Permit process could eliminate those structures that were more country club oriented and less to do with the operation of the golf course. The proposed language was tightened up to state, "golf related accessory structures directly associated with the operation or maintenance of a pre existing golf course." There was a brief discussion on whether this Special Permit use should be included in the R-3 District where there is also a pre existing golf course. It was decided it would not be included at this time because the golf course on Lake Waramaug is more like a country club. Mr. Schoon will be sent a letter to ask if the revised wording for a new Section 4.4.17 is acceptable to the Club. If it is, the proposed revision will be forwarded to the surrounding COG's and a public hearing scheduled for the October 23rd meeting.

**Revision of the Zoning Regulations/Definition of Fence:** Mr. Owen noted the current regulation for fences on the lake side of East and West Shore Roads states that the view of Lake Waramaug may not be "unduly obscured" by the proposed fence. It had been agreed during a previous discussion of a fence for the Ingrassia property that this term was too vague. The question had also been raised whether a row of trees would be considered a fence. He read the definition of "fence" listed in **The New Illustrated Book of Development Definitions** by Moskowitz and Lindbloom and reviewed his suggestions for revisions in his 8/18/06 draft. Regarding proposed Section 6.3.5 it was agreed there should be a distinction between the 2 ft. high fences that are currently permitted and taller fences that do not block the view of the lake. It was also agreed that a tightly spaced row of trees or bushes should be considered a fence and that this should be added to the definition in Section 6.4.6. Although the phrase, "unduly obscured," was vague, Mrs. Friedman pointed out it did let the public know what the Commission's objective is. The commissioners decided not to adopt regulations that differentiate between closed and open fences at this time. The proposed definition for fence in Section 21.1.8 is, "An artificially constructed barrier of any material or combination of materials which is erected to enclose, screen, or separate areas." This matter will be considered at the second hearing scheduled for October 23, 2006;

the first hearing of the evening begins at 7:30 p.m.

**Revision of the Zoning Regulations/Section 6.6/Dock:** The term, "rowing shell dock" will be deleted from the entire section. It was the consensus that 360 sq. ft. was large enough for docks and this figure did not have to increase. Mr. Ajello noted with this revision, Washington's regulations more closely matched those of Kent and Warren. The use of non pressure treated wood was discussed. It was debated whether to leave Section 6.6.10.c as written, to delete the reference to CCA treated wood, or to prohibit all pressure treated wood. The Commission will consult with the Lake Waramaug Association. A public hearing was scheduled for October 23, 2006. It will be the third hearing of the evening.

**Depot Study:** Mr. Owen gave a brief update on the recently held Planning Commission public forums, noting they had been process oriented. He stated the recently approved revisions to the regs governing the New Preston and Depot Business Districts would allow many of the ideas raised in the study to move forward.

Enforcement

**Outdoor Wood Boilers:** Mr. Ajello circulated a fact sheet from the DEP on these boilers and examples of how some other Ct. towns govern them. The Commissioners will study the information before deciding whether to adopt regulations that mirror the state's regulations or to prohibit the boilers in Town.

**10 Main Street, New Preston:** Mrs. Friedman asked if there was adequate parking available for the businesses on this site and whether the driveway entrance was safe. Mr. Ajello explained the parking would be on the upper level behind the barn and no parking would be permitted along the road.

**Moore/Litchfield Turnpike:** Mr. Ajello reported the violations on this property would soon come before the Commission.

MOTION: To adjourn the meeting. By Mrs. Friedman.

Mr. Owen adjourned the meeting at 9:43 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator