

## September 23, 2002

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

ALTERNATE PRESENT: Mr. Brinton

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATES ABSENT: Mr. Abella, Mr. Shapiro

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mrs. Werner, Mr. McNaughton, Mr. and Mrs. Stephens, Mrs. Tracy, Mr. Sears

Mr. Martin called the meeting to order at 7:30 p.m. and seated Members Friedman, Martin, Owen, and Page and Alternate Brinton for Mr. Fitzherbert.

Consideration of the Minutes was put off until the next meeting.

Other Business

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

Mr. Martin read the 9/16/02 letter from Mr. and Mrs. Tracy requesting the renewal of their above referenced permit. Mrs. Hill advised the Commission that according to Section 13.16.7 renewal could be granted without reapplication and that she had inspected the property, had found the operation had not affected the character of the surrounding area, the storage was not detrimental to the public health, safety, and welfare, and there were no violations. Mr. Owen noted the Tracys faithfully renewed their permit every two years as required.

MOTION: To grant a two year renewal of the Tracy Special Permit: Section 13.16 for shop and storage use by contractors and building tradesmen at 47 Rabbit Hill Road. By Mr. Owen, seconded by Mrs. Page, and passed 5-0.

### **Washington Montessori School/240 Litchfield Turnpike/Request to Amend Condition of Special Permit: Section 4.4.10**

Mr. Martin noted the 9/17/02 letter from Mr. McNaughton had been mailed to the Commissioners prior to the meeting. In this letter, Mr. McNaughton had asked that the condition regarding outside construction be revised as follows; "There shall be no outside construction before 7:00 a.m. Monday through Saturday, outside construction on Sunday be limited to 8:00 a.m. to 4:00 p.m. and that no blasting, no operation of heavy machinery including pneumatic equipment, and no site work be permitted before 8:00 a.m. Monday through Saturday, or on Sunday."

Mr. Martin briefly noted that soon after the Special Permit had been granted the school had asked for revisions to the limitations on outside work hours and these had been granted. Since that time many complaints had been received from neighbors about work beyond the approved hours. School officials had attended the May meeting to discuss these violations and had assured the Commission there would be no more.

However, the complaints have continued.

Mr. McNaughton admitted there have been times when the contractors exceeded the approved work hours, but said many of the "violations" were the beeping sound of large equipment backing up when technically there was no work in progress. He explained a certain number of hours is needed to complete the project and that working more days is less efficient due to the long start up/shut down time each day. He said the school was trying to get the dust under control by seeding the disturbed areas and had to get the driveway in so that work could continue over the winter.

Ms. Page suggested more workers and equipment be used to get the work done. Mr. McNaughton said additional equipment could not be used due to safety concerns. He also said he had heard remarks that if less time had been spent processing top soil, the work would be on schedule, but said this was not the case.

Mrs. Friedman noted the request did not provide a time when work would stop each day. She asked how many weeks the expanded hours would be needed. Mr. McNaughton said he did not know, but it was dark now at 7:00 p.m. and soon daylight savings time would end.

Mr. McNaughton asked for clarification of two points: 1) The condition of approval said no outside work after 5:00 p.m., but did this include quiet work such as painting? 2) Did pneumatic tools include hand tools such as staple guns? Mr. Brinton pointed out air compressors used for pneumatic tools are very noisy. It was the consensus all pneumatic tools were considered heavy machinery.

Mr. Martin read the 9/23/02 ZEO Report, which included Mrs. Calhoun's concerns about the request to extend the work hours and the 9/23/02 letter from Dr. and Mrs. Sherman, which also expressed concerns. Mr. Stephens, Warren Road, stated his concerns that no shut down time was given and that the ongoing construction had negatively impacted the wildlife on his property. He said he was against the request for longer work hours.

Mr. Brinton asked if the school could prioritize the work to be done and complete the regrading and seeding before resuming construction. Mr. McNaughton said he did not think the extended hours would speed up the enclosure of the building; that the construction schedule and site work schedules were separate.

Mr. Martin noted the request was for a sufficiently minor change in a condition of approval so that it could be considered tonight and would not require a public hearing.

It was the strong consensus there should be no work on Sunday. Mr. McNaughton stated that if he had to choose longer work days during the week or work on weekends, it would be more efficient to be permitted to work longer on the weekdays. A lengthy discussion followed regarding whether to extend the work hours as requested for weekdays and Saturday. In general it was thought it would be a big benefit to the school, neighbors, and the environment to get the project completed and so it was agreed to extend the hours as follows:

- Weekdays: 7:00 a.m. - 6:00 p.m. Working under lights would be OK, but they must be off by 6:00.
- Saturdays and Sundays: No change (Saturdays: 8:00 a.m. - 4:00 p.m. with no site work or heavy machinery, Sundays: no work)
- No engines to be turned on to warm up prior to 7:00 a.m.

- Revised work hours shall remain in effect until the January 2003 Zoning meeting at which time they will be reevaluated.

Mr. Martin noted the Commission did not expect to receive any additional requests for further extensions of the work hours. He also advised the school that the violations must stop. Mr. McNaughton said he would inform all contractors on the job that if there were any further violations, the work hours would immediately revert to 8:00 a.m. to 5:00 p.m. The consensus of the Commission was in strong agreement with this statement.

**MOTION:** To approve the following change in one of the conditions of approval of the Special Permit issued to Washington Montessori School/240 Litchfield Turnpike/Section 4.4.10/Construct School: that outside construction may take place between 7:00 a.m. and 6:00 p.m. Monday through Friday until the date of the January 2003 Zoning Commission meeting, limitations on work on the weekends shall not change, and all other conditions shall not change. By Ms. Page, seconded by Mr. Owen, and passed 5-0.

#### Public Comment

Mr. Sears, president of the Washington Community Housing Trust, asked if there would be any discussion regarding its upcoming application for affordable housing units at 16 Church Street, New Preston. Mr. Martin responded a letter dated 9/23/02 had been received from Mr. Boling, but would not be discussed until the application is submitted.

#### Other Business

#### Revision of the Zoning Regulations

1. Sections 12.14, 17, and 18.3.1: Three public hearings will be scheduled for Monday, October 28, 2002.

2. Section 2.3.1: Atty. Zizka will review this section and do further work.

3. Section 14: Mr. Martin noted the draft section had been forwarded to the Inland Wetlands, Planning, and Conservation Commissions and ZBA for review. The draft is still being worked on and a hearing had not yet been scheduled. He said when input has been received it will be forwarded to Mr. Oley to review and factor in when appropriate. Mr. Owen stated he was concerned that the proposed revisions would be too complicated and expensive to deal with. He said he thought Washington already had stricter coverage requirements and lower density development than the ideal presented in the NEMO workshop. He did not think the movement of water on land was a pressing problem in Town and he did not see the need for the changes proposed. Mr. Martin noted the Commission's objective for 2002 had been the update of this section with particular attention to drainage and runoff problems. He said the problem the Commission was trying to solve was poor designs causing runoff problems. Mr. Owen thought the proposed requirements were excessive and so recommended the draft be reviewed by an engineer. Mr. Martin indicated he had already asked Mrs. Hill to forward the draft to Mr. Neff for review. Mrs. Friedman suggested he be asked whether it was possible to accomplish the same goal in a less expensive way for the applicant. Mr. Sedito, ZBA Member, objected to the proposed requirements for single family dwellings and additions. He thought the required site plan, topo information, storm drainage plan, landscaping plan, and soil scientist would result in long delays for the applicant and would make the process very expensive. He thought the Regulations should protect the common people who would like to remain in Town. Mr. Martin explained former First Selectman

Chapin had pointed out some disastrous projects, which had caused serious runoff problems for neighbors and Town roads. He said there were not enough guidelines and safeguards re: runoff and noted future development would tend to take place on steeper slopes so the problem would escalate in the future. Mr. Sedito thought the driveway ordinance dealt with these issues. Mr. Martin said the driveway ordinance only pertained to driveways. Other types of construction involving excavation, clearing, and grading, for example, could also create runoff problems. Mr. Sedito asked if there was another way to accomplish the Commission's goal without making it so difficult for the average property owner, for example, spelling out the storm water management requirements without a corresponding site plan requirement. Mr. Martin said this would be the next step in the Commission's process in redrafting this proposal. He thought, however, that Mr. Sedito's specific suggestion would make it difficult to confirm that the design of the project meets the standards of the Regulations. Mr. Owen suggested cash bonds be required. He also said he did not think it was necessary for the regulation to cover all contingencies. Mr. Sedito recommended the Commission investigate how other towns manage this problem. Mr. Martin noted Mr. Oley had studied other towns' regulations and that many of them had addressed the problem by strengthening their site plan sections. Mr. Owen thought the remedy proposed by the Commission would be a higher cost than what it was trying to prevent and that it would be a mistake if the Commission did not consider the cost to the applicant. Mr. White thought perhaps the stricter requirements should be added to the driveway ordinance instead of the Zoning Regulations. Mrs. Friedman thought Mr. Oley had done an impressive job that showed forward thinking. Mr. Owen, however, thought the draft would make it more difficult and expensive to develop land in Town. Mr. Martin said there definitely was a runoff problem in Town and the Commission's consultant had attempted to address it in a proactive manner. He said the next step in the process would be for the Commission to gain suggestions on how this draft could be improved. He said he appreciated all the input to date and that the Commission would continue to work on the draft and try to find a better balance between benefits and costs. He also said the cost and timing impact of the proposed revision would have to be better understood and validated prior to the next redraft.

### **Revision of the Zoning Regulations - General**

Mr. White asked about the requirements for posting proposed revisions to the Regulations. Mr. Martin said the Commission must comply with the state statutes. Mrs. Hill noted by state statute she is required to refer proposed Zoning changes to the Planning Commission, but Zoning typically sends them to the other land use commissions as well. Mr. White suggested they be posted on the website. Mr. Martin said it would not be appropriate to circulate early stage drafts and noted the required public hearing is the time for comments. He noted, too, the subjects discussed by the Commission are included in the minutes, which are posted on the Town's website, and anyone can contact the office for additional information. Mr. White asked Mrs. Hill to send him copies of the comments received on draft Section 14 to date. Mr. Martin thought this was a good idea because many of the responses received have been positive.

### **Communications**

Mr. Martin noted the memo he had received from Mrs. Osborne to inform the Zoning Commission of ZBA's 10/10 meeting with Atty. Zizka. Mr. White said this would mainly be a discussion on general procedural issues. All Commissioners and Alternates are invited to attend.

Copies of the June 2002 Final Report of the Housing Study Committee were circulated.

It was noted the updated Zoning District map was now hanging in the Land Use Meeting Room.

## Enforcement

Mr. Owen noted there were tables outside Doc's. Ms. Page said the restaurant had a sign posted that the tables were for lounging, not eating.

Ms. Page asked whether Montessori School was permitted to sell top soil. Mrs. Hill noted that the Regulations had been recently revised to state that excavation resulting from a bonafide construction project did not require a separate Special Permit.

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

Mr. Martin adjourned the meeting at 9:22 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill  
Zoning Enforcement Officer