

## September 24, 2007

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

MEMBERS ABSENT: Mr. Averill, Mr. Fitzherbert

ALTERNATES PRESENT: Mr. Shapiro, Mr. Wadelton, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Freer, Atty. Kelly, Mr. Fairbairn, Press, Mr. Papsin

Mr. Owen called the Regular Meeting to order at 7:30 p.m. and seated Members Abella, Friedman, and Owen and Alternates Shapiro and Wyant for Mr. Averill and Mr. Fitzherbert.

### PUBLIC HEARINGS

Stiteler/262 West Shore Road/Special Permit: Section 6.4.9/ Boathouse/Con't.

Mr. Owen reconvened the public hearing at 7:30 p.m. He noted he had consulted with Atty. Zizka who had advised him that when a property is divided by a right of way, each piece is treated as a lot and each must meet all setback requirements, which meant that for this application for lake shore property, the front yard setback must be met. On behalf the the Stitelers, Atty. Kelly asked for clarification because he had understood that Atty. Zizka had the opposite opinion in a recent ZBA case. Mr. Ajello and Mr. Owen pointed out that there were differences between the two cases; one right of way split the lot, the other did not; one case was about setbacks, the other about coverage; and one involved a public right of way, the other a private right of way. Atty. Kelly noted that when it had approved the Stiteler-Giddins subdivision, the Planning Commission had specifically stated that the lake shore property was part of the 198 Tinker Hill lot and could not be considered a separate lot. He warned that if this was considered a separate lot, the owners would be able to get a variance to build a house on it. He asked for a response in writing from Atty. Zizka and submitted a written request for an extension of the hearing. It was agreed that Atty. Kelly would submit a concise letter detailing the issues he wants Atty. Zizka to address. Atty. Kelly submitted the following documents for the file: 1) the letter dated 9/24/07, which requested a modification to enlarge the building to 10' X 8' and noted that natural decay resistant wood would be used and 2) a photo of the proposed building with construction specifications. Mr. Owen read the 9/24/07 letter from Mr. Frank, President of the Lake Waramaug Association, which did not favor or oppose the application, but made several points including pointing out that historically only boathouses, not storage sheds, have been permitted within 50 feet of the lake. Atty. Kelly asked the Commission for feedback on this letter and for copies of all new documents in the file.

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 October 22, 2007 at the request of the applicants. By Mr. Owen, seconded by Mr. Shapiro, and passed 5-0.

At 7:42 p.m. Mr. Owen continued the hearing to 10/22/07 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

Freer/246 Woodbury Road/Special Permit: Section 13.11/Detached Accessory Apartment/Con't.

Mr. Owen reconvened the public hearing at 7:42 p.m. He said he had discussed with Atty. Zizka the variance for the second driveway to serve the detached apartment. Atty. Zizka informed him that the ZBA had the right to grant this variance and that it was not a use variance. There were no other outstanding issues to discuss and no questions from the commissioners or from the public.

MOTION: To close 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. By Mr. Owen, seconded by Mrs. Friedman, and passed 5-0.

At 7:45 p.m. Mr. Owen closed the public hearing.

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. Owen called the Regular Meeting to order at 7:45 p.m.

### Consideration of the Minutes

MOTION: To accept the 8/27/07 Public Hearing - Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Abella, and passed 5-0.

### Pending Applications

**Freer/246 Woodbury Road/Special Permit: Section 13.11/Detached Accessory Apartment:** Mr. Owen noted the public hearing had been closed and there were no outstanding issues.

MOTION: To approve the Special Permit application: Section 13.11 submitted by Mr. Freer for a detached accessory apartment at 246 Woodbury Road. By Mr. Owen, seconded by Mr. Shapiro, and passed 5-0.

**Stiteler/262 West Shore Road/Special Permit: Section 6.4.9/ Boathouse:** The public hearing was continued to 7:30 p.m. on October 22, 2007 in the Land Use Meeting Room.

There were no new applications.

### Other Business

**Washington Community Housing Trust/16 Church Street/Request to Amend Special Permit:** Mr. Fairbairn represented the Housing

Trust. He submitted a letter dated 9/21/07 requesting permission to pave the driveway/parking area in front of the lower apartments. He noted the existing gravel surface erodes easily, causes dust, and is difficult to maintain. He also pointed out that paving this area would not result in an increase in coverage because it is already counted as traveled surface. The map, "Proposed Drainage and Grading Plan," by Mr. Howland, revised to 3/6/03 was reviewed. Mr. Fairbairn said the 3600 sq. ft. area would be paved with islands as shown on this site plan. It was the consensus that the request was a reasonable one.

**MOTION:** To approve the request to amend the Special Permit issued to the Washington Community Housing Trust for affordable housing units at 16 Church Street to allow the paving of the driveway/parking area in front of the lower apartments. By Mr. Owen, seconded by Mr. Shapiro, and passed 5-0.

**Revision of the Zoning Regulations/Section 13.11/Accessory Apartments:** Mr. Owen noted the one point the Commission had agreed upon in previous discussions was to allow only one accessory apartment per property. He circulated a draft revision, "Accessory Apartment," dated 9/24/07, which is attached to these minutes. It was noted that Washington is the only town in this area that currently allows more than one apartment per property.

A public hearing to consider the proposed revision was scheduled for Monday, November 26, 2007 at 7:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington Depot, Ct.

**Revision of the Zoning Regulations/Fences and Stone Walls:** Mr. Owen circulated draft revisions, "Fences," dated 9/24/07, a joint effort by Mrs. Friedman, Mrs. Hill, and Mr. Owen. Mrs. Hill had measured fences and wall throughout Town and passed out a sheet, which listed their heights. It was noted that basically the older walls met the proposed revisions, while the newly constructed fences and walls did not.

- 1) 21.1.28/Definition of Fence: Mr. Owen noted this definition included walls. Language had been added regarding how to measure the height of a fence. Three types of fencing; open, semi open, and closed were defined. He noted that hedges were dealt with separately in the Lake Waramaug District regulations.
- 2) 11.6.4/Setbacks for Fences: It was proposed that open fences up to 8 ft. tall would be exempt from the setback requirements because you would be able to see through them. Semi open and closed fences would be exempt if they were no more than 4 ft. high and if they do not run along a front line or a street.
- 3) 12.16/Non Binding Guidelines and Recommendations: It was thought that inclusion of this section would provide information regarding what types of walls and fences would be in keeping with the rural and historic character of the Town.
- 4) 21.1.65/Definition of Structure: This definition was brought up to date by adding examples of several types of structures such as air conditioning units, generators, and fences that require zoning permits. Also, a note was added that all structures are considered permanent.
- 5) 21.1.12/Definition of Building: This definition was also updated. Mr. Owen explained that since buildings and structures were now more specifically defined, fences and walls over 8 ft. high would no longer be considered as buildings.

6) 21.1.68/Definition of Wall: This will be a reference to the definition of Fence.

It was noted that more information will have to be submitted with fence applications than is now submitted because the EO will have to compute what percent of the fence is open to determine which, if any, setbacks must be met. Also, the commissioners will consider factors such as gates and pillars and address them at the public hearing. The public hearing was scheduled for Monday, November 26, 2007 in the Land Use Meeting Room immediately following the hearing on revisions to Section 13.11: Accessory Apartments. The proposed amendments are attached.

**Revisions to the Zoning Regulations/Docks/Sections 6.6.14-6.6.16:** Mr. Owen noted the current Regulations fail to address structures that now serve as docks, but that were built prior to the adoption of the current definition, so are non conforming. It was agreed that in order to be considered a dock, the structure had to be able to function as a dock, that is, a boat could be pulled up to it and it must be able to be accessed from the water. Mr. Owen thought it was reasonable to let these non conforming structures be enlarged as long as they would not exceed the current regulations. For example, an existing concrete dock would be enlarged as long as it complied with the requirements of Section 6.6 and the combined square footage of the old and new sections did not exceed 360 sq. ft. There was a lengthy discussion regarding repairs to and resurfacing of non conforming docks. The resulting draft revisions are attached. The draft will be sent to Mr. McGowan of the Lake Waramaug Task Force and Mr. Frank of the Lake Waramaug Association for review. A public hearing was scheduled for Monday, November 26, 2007 in the Land Use Meeting Room, Bryan Memorial Town Hall; the third public hearing of the evening.

Privilege of the Floor

Mr. Papsin asked about several issues:

**1) Denscot Pools/New Milford Turnpike:** He complained that there is outdoor storage not approved under the Special Permit and that it is an eyesore. Mr. Ajello stated also that equipment is parked by the river beyond the area it was limited to. It was noted, however, that the pool chemicals were stored in the basement. Denscot also has a sandwich board sign and a banner on a fence for which there are no permits.

**2) The sign at the 202 convenience store/New Milford Turnpike:** Both Mr. Papsin and Mrs. Friedman complained that sandwich board signs placed out by the road were a safety hazard because they block the view of traffic as you try to pull out on to Rt. 202. Mr. Ajello noted this business also has a lighted sign that would have to be removed from the window.

**3) Other signs such as Webster Bank, open banners, Papa Joe's, off the premises signs, non profit signs, etc.:** Mr. Papsin and Mrs. Friedman noted there are many illegal off the premises signs in the Marbledale/New Preston area. Mr. Ajello noted that the Webster Bank sign had been approved. He said he was generally in favor of a revision to the sign regulation that requires signs to be placed at least 10 ft. back from the boundary line. He proposed to draft a letter to be hand delivered to sign regulation violators who would be fined if their signs had not been brought into compliance within 30 days and the fine doubled if there were still ongoing violations after 60 days. Regarding non profit signs, Mr. Ajello said he had taken many down, but it was noted that signs for out of town non profit events would be permitted for 2 week periods if a zoning permit was applied for. In Town non profits may put signs up for 2 weeks without a permit. Mr. Owen noted that while it was difficult for business owners in Washington and the Commission did not want to drive anyone out of business, the most serious sign violations had to be addressed. He asked Mr. Ajello to prepare a draft letter as had discussed earlier in the meeting.

Mr. Wadelton said he would attend the Cell Tower forum on 9/26 and would report back to the Commission at the next meeting.

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

Mr. Owen adjourned the meeting at 9:10 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator

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Fences Draft 9/25/07

CAPS = new

Underscore = delete

11.6.4 OPEN FENCES THAT ARE NO MORE THAN 8 FEET TALL ARE EXEMPT FROM THE REQUIREMENTS OF 11.6.1, 11.6.2, AND 11.6.3. SEMI-OPEN FENCES AND CLOSED FENCES, INCLUDING PICKET FENCES AND STONE WALLS, are exempt from the aboveTHE REQUIREMENTS OF 11.6.1, 11.6.2, AND 11.6.3 IF

A. THEY ARE NO MORE THAN 4 FEET TALL, OR

B. THEY DO NOT FACE A FRONT LOT LINE OR A STREET

11.6.5 setback requirements (Exception: See Section 21.1.10).

**12.16 NON-BINDING GUIDELINES AND RECOMMENDATIONS FOR FENCES.**FENCES, INCLUDING STONE WALLS, SHOULD REFLECT THE RURAL AND HISTORICAL CHARACTER OF OUR TOWN. MATERIALS AND CONSTRUCTION METHODS SHOULD BE HARMONIOUS WITH THOSE THAT HAVE BEEN USED IN OUR REGION FOR GENERATIONS. STONE WALLS THAT USE NATIVE MATERIALS AND TRADITIONAL DRY CONSTRUCTION METHODS ARE ENCOURAGED; STONE WALLS THAT THAT USE NON-NATIVE MATERIALS, RECTILINIAR STONES, FORMAL DESIGNS, AND MORTAR-STYLE CONSTRUCTION ARE DISCOURAGED.

21.1.12 **Building.** Any structure having THAT HAS a roof and IS intended for the shelter, housing, or enclosure of persons, animals, poultry, or materials. Any other structure, including an accessory structure to a permitted use and including fences and walls, any of which

are more than 8 feet high, shall be considered as buildings.

**21.1.65 Structure.** Anything THAT IS constructed or erected with AND HAS a fixed location on the ground, or IS attached to something having THAT HAS a fixed location on the ground. FENCES (INCLUDING STONE WALLS), CENTRAL AIR-CONDITIONING UNITS, GENERATORS, SWIMMING POOL FILTERS, ETC., ARE STRUCTURES. All structures, INCLUDING TENTS USED FOR STORAGE, ARE shall be considered permanent AND ARE GOVERNED BY THESE REGULATIONS.

**21.1.28 Fence. An artificially** A constructed barrier of WOOD, STONE, OR any OTHER material or combination of materials which is erected to enclose, screen, or separate areas. THE HEIGHT OF A FENCE IS MEASURED FROM THE EXISTING GROUND LEVEL, PRIOR TO ANY EXCAVATION OR FILLING, TO THE TOP OF THE FENCE. AN OPEN FENCE, SUCH AS A SPLIT-RAIL FENCE, IS ONE THAT OBSCURES LESS THAN 25 PERCENT OF THE VIEW DIRECTLY THROUGH IT. A SEMI-OPEN FENCE, SUCH AS A PICKET FENCE, IS ONE THAT OBSCURES 25 PERCENT TO 60 PERCENT OF THE VIEW DIRECTLY THROUGH IT. A CLOSED FENCE, SUCH AS A STONE WALL OR A STOCKADE FENCE, IS ONE THAT OBSCURES MORE THAN 60 PERCENT OF THE VIEW DIRECTLY THROUGH IT.

21.1.68 WALL. SEE "FENCE."

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Docks Draft 9/25/07

Caps: New

6.6.14 Existing, nonconforming structures that extend beyond the shoreline and are used as docks or could be used as docks including concrete piers, overhanging boat-house decks whose upper surfaces are within three feet of the water's surface and are accessible from the lake, and similar structures shall be considered docks for the purposes of these regulations, and any part of such structures which extends beyond the shoreline shall be included in any surface-area calculations required under Section 6.6.

6.6.15 The existing, nonconforming structures described in 6.6.14 may be enlarged if:

- a. the enlarged structure is to be used as a dock, and
- b. the added portions meet the requirements of Section 6.6, and
- c. the combined surface area of the original nonconforming structure and its extension meets the size requirements of Section 6.6.6.

6.6.16 Existing, non-conforming concrete piers that extend beyond the shoreline may be resurfaced with wood or masonry if

- a. the new deck surface is no more than eight inches higher than the original surface of the non-conforming concrete pier, and
- b. the new deck surface does not extent more than 1.5 inches beyond any edge of the existing, non-conforming pier.

## Accessory Apartments Draft 9/25/07

CAPS = new

Underscore = delete

13.11 Revision - entire Section 13.11, Accessory Apartments, effective 12/26/00; revision Section 13.11.2.e to reconcile 21.1.25 effective 4/22/02 **Accessory Apartments**.

13.11.1 Intent. It is the intent of the Zoning Commission to permit property owners to create accessory apartments to provide small-scale housing for a variety of possible occupants. Such occupants may include relatives of the property owners, caregivers, guests of the property owners, the elderly, individuals, couples, and small families with limited income or limited housing needs, and others. **NO MORE THAN ONE ACCESSORY APARTMENT SHALL BE PERMITTED PER PROPERTY.** It is not the intention of the Zoning Commission to permit property owners to use these Regulations to circumvent the Town's soil based housing density regulations by creating a second substantial dwelling on an undivided parcel. The requirements governing accessory apartments are more stringent for detached apartments than for attached apartments because the Zoning Commission believes that a property owner is more likely to maintain close supervision of an apartment that directly adjoins the property owner's own dwelling.

13.11.2 a. No more than one attached accessory apartment shall be permitted per property.

13.11.3 a. No more than one detached accessory apartment shall be permitted per property.