

September 25, 2006

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

MEMBERS ABSENT: Mr. Fitzherbert, Mr. Martin

ALTERNATE PRESENT: Mr. Shapiro

ALTERNATES ABSENT: Mr. Abella, Mr. Wyant

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Ms. LaBella, Mr. Mitchell, Mr. Dugan, Mr. Neff, Mr. Papsin, Mr. Dobson, Mr. Fairbairn, Press

Mr. Owen called the meeting to order at 7:32 p.m. and seated Members Averill, Friedman, and Owen and Alternate Shapiro.

PUBLIC HEARINGS

Washington Cemetery Assoc., Inc./17 Parsonage Lane/Special Permit: Section 4.4.2/Storage-Administration Building

Mr. Owen called the public hearing to order at 7:33 p.m. Mrs. Friedman read the legal notice published in **Voices** on 9/13 and 9/20/06. Mr. Owen read the list of documents in the file and the 9/25/06 ZEO Report.

Mr. Mitchell, president of the Washington Cemetery Assoc., spoke of the cemetery's need for a safe and dry storage building for historical records, maintenance tools, and deliveries of plaques, stones, and remains.

The building elevation and floor plans were reviewed. A single story, 13 ft. X 30 ft. building set on top of the existing vault was proposed. It would have no plumbing. Electrical service was already available.

Mr. Mitchell stated there would be no overnight outdoor lighting.

There were no questions or comments from the commissioners or the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 4.4.2 submitted by the Washington Cemetery Assoc., Inc. for a storage-administration building at 17 Parsonage Lane. By Mr. Shapiro, seconded by Mr. Averill, and passed 4-0.

Mr. Owen closed the public hearing at 7:42 p.m.

Johnson/10 Lower Church Hill Road/Special Permit: Section 13.11.3/

Detached Accessory Apartment

Mr. Owen called the public hearing to order at 7:43 p.m. Mrs. Friedman read the legal notice published in **Voices** on 9/13 and 9/20/06. Mr. Owen noted the documents in the file and read the 9/25/06 ZEO Report.

Mr. Neff, engineer, noted there was an existing building on site with a garage below and a 1338.5 sq. ft. dwelling unit above. To decrease the dwelling unit in size to 1200 sq. ft. or less so it could qualify as an accessory apartment, he explained a partition would be erected at the top of the stairway to create an unheated area. The existing and proposed floor plans were compared.

It was noted the Special Permit application for the accessory apartment had been submitted along with an application for a single family dwelling on the same lot. Mr. Owen read the 9/25/06 statement from Mr. Johnson to the Zoning Commission that he would reside on the premises for the duration of the permit.

Also reviewed were the elevations and floor plans for the proposed 8265 sq. ft. house and the map, "Proposed Site Plan," by Mr. Neff, revised to 5/4/06, which showed both proposed dwelling units would share a single driveway. Mr. Neff also noted both septic systems had already been installed and there was an existing well.

There were no questions from the commissioners or from the public.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Johnson for a detached accessory apartment at 10 Lower Church Hill Road. By Mr. Shapiro, seconded by Mr. Averill, and passed 4-0.

Mr. Owen closed the public hearing at 7:49 p.m.

Dobson/255 New Milford Turnpike/Special Permit: Sections 9.5.1 and 9.4.1.j/Commercial Storage Building and Increase in Lot Coverage to 35.8%

Mr. Owen called the public hearing to order at 7:49 p.m. Mrs. Friedman read the legal notice published in **Voices** on 9/13 and 9/20/06. Mr. Owen read the list of documents in the file and the 9/25/06 ZEO Report. Mr. Ajello added that the Inland Wetlands Commission had approved the application.

Mr. Owen read the 9/16/06 letter to the Commission from Mr. Underwood, which stated the building was proposed in an area that may be needed for the repair of the existing failing septic system, and the 9/21/06 response from Mr. Dobson, which stated the area where the building was proposed could not be used for a septic system.

Mr. Dobson presented the map, "Property/Boundary Survey," by Mr. Cheney, revised to May 2006 on which he had sketched the approximate location of the existing septic system. He dated and initialed this addition to the map. Mr. Dobson said nothing was flowing from either the septic system or the catch basin to the river because the pipes for both were blocked. The location of the proposed 70 ft. X 40 ft. building was noted.

Photos of a building similar to the one proposed were circulated. The structure was a three bay steel building with overhead doors that would be used for the storage of equipment. Mr. Dobson was not certain about the exact height, but it appeared to be at least 16 ft. tall.

It was noted the building would be set back quite a distance from Rt. 202 and could not be seen from the highway.

Mr. Owen noted the Health Dept. had approved the application before Mr. Underwood's letter had been received and had not been available to review it again since then. Mr. Averill asked if the Inland Wetlands Commission and Health Dept. had approved a location for a reserve septic system. It was thought the Health Dept. probably had in its review of the proposed building, but Mr. Ajello noted Inland Wetlands had not. Mr. Owen noted the proposed building would be for storage only and that any change of use in the existing building would require another Health Dept. review.

Mr. Dobson was applying for an increase in coverage from 25% to 38.5%. While she thought the proposed structure would be functional, Mrs. Friedman did not think it met the criteria listed in Section 9.6 to qualify for the increase. She stated the intent of this section was to allow development that would enhance Marbledale. Mr. Shapiro noted there were other buildings in Marbledale similar to the one proposed. Mr. Owen noted it would be hidden behind the front building and Mr. Shapiro likened the application to Underwood's Special Permit for the self storage buildings, which were partially screened by a berm. Mr. Owen noted greater lot coverage would help make commercial enterprises functional in Marbledale, which was another intent of the regulation.

Mr. Ajello asked if the building could be seen from adjoining properties. Mr. Dobson said there was commercial property on both sides and the building could not be seen from Wheaton Road. He offered to change the design somewhat if there were objections. Ms. LaBella, owner of the adjoining property off Wheaton Road, said that the proposed building did not fit in with the community. She said she would be building a home in the future and she would be able to see the new structure if it were not screened. Mr. Dobson said the existing growth screens the property. Ms. LaBella feared a future owner would clear the area between the two properties, but Mr. Ajello pointed out this area is regulated by the Inland Wetlands Commission, so clearing would be unlikely. It was also noted that Mr. Dobson's building would be 70 ft. from the property line and any new house on the 4 acre LaBella property would be approximately 100 ft. back from the rear line to keep it out of the regulated wetlands area.

Mr. Ajello noted the photos of the proposed building showed outdoor lighting. Mr. Dobson said there was already a spotlight on the rear of the existing building and additional outdoor lights were not needed.

The septic issues were discussed in detail. It was noted the existing building is limited to low water uses and that all proposed changes of use had to be approved by the Health Dept. Mr. Dobson did not think Mr. Underwood's concerns were relevant to this application because 1) a septic system could not be installed where the building was proposed, 2) the proposed building would have no plumbing, and 3) the building would be used for storage only. Mr. Averill suggested that since the Health Dept. had approved the application prior to receiving Mr. Underwood's letter, that it make a second review to determine whether a septic issue remained.

MOTION: To close the public hearing to consider the Special Permit application: Sections 9.5.1 and 9.4.1.j submitted by Mr. Dobson for a commercial storage building and an increase in coverage to 35.8% at 255 New Milford Turnpike. By Mr. Owen, seconded by Mr. Shapiro, and passed 4-0.

Mr. Owen closed the public hearing at 8:29 p.m.

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 meeting to order at 8:30 p.m.

Consideration of the Minutes

MOTION: To accept the 8/28/06 Public Hearing- Regular Meeting minutes as written. By Mrs. Friedman, seconded by Mr. Averill, and passed 4-0.

Pending Applications

Washington Cemetery Assn., Inc/17 Parsonage Lane/Special Permit: Section 4.4.2/Storage-Administration Building

MOTION: To approve the Special Permit application: Section 4.4.2 submitted by the Washington Cemetery Assoc., Inc. for an administration- storage building at 17 Parsoange Lane. By Mrs. Friedman, seconded by Mr. Averill, and passed 4-0.

Johnson/10 Lower Church Hill Road/Special Permit: Section 13.11.3/

Detached Accessory Apartment

Mr. Ajello recommended a condition of approval that the applicant demonstrate the dwelling unit over the garage has been decreased to 1200 sq. ft. or less before a certificate of zoning compliance is issued for the main house.

MOTION: To approve the Special Permit application: Section 13.11.3 submitted by Mr. Johnson for a detached accessory apartment at 10 Lower Church Hill Road subject to the following condition: before zoning compliance is issued for the new dwelling, it must be confirmed that in the detached apartment the space at the top of the stairs has been rendered uninhabitable by installing a partition and that this space has remained unheated. By Mr. Owen, seconded by Mr. Shapiro, and passed 4-0.

Dobson/255 New Milford Turnpike/Special Permit: Sections 9.5.1 and 9.4.1.j/Commercial Storage Building and Increase in Coverage to 35.8%

Conditions of approval were discussed. It was the consensus that since Mr. Underwood's concerns had been raised after the Health Dept. approved the application, it should review it a second time. It was agreed that since there was existing vegetation along the rear boundary line and the existing building was not visible from the LaBella property, a condition requiring screening in the rear was not necessary. The commissioners also agreed there should be no overnight lighting.

Mrs. Friedman noted the language in Section 9.6 was mainly aesthetic and so again stated the proposed building did not enhance the Marbledale Business District and did not comply with this section. She said she was conflicted, however, because the request to increase the coverage seemed reasonable. Mr. Owen noted the Commission had previously found elsewhere in Marbledale that self storage buildings met the objectives of this section and Mr. Shapiro stated one of the purposes of the revised Marbledale regulations was to promote the commercial aspect of the district. It was noted while the proposed building was not harmonious with its immediate surroundings, it would not be visible from the highway.

MOTION: To approve the Special Permit application: Sections 9.5.1 and 9.4.1.j submitted by Mr. Dobson for a commercial storage building and increase in lot coverage to 35.8% at 255 New Milford Turnpike subject to the following conditions: 1) the Health Dept. review the 9/16/06 Underwood letter and notify the Commission that there are no remaining Health concerns and 2) there shall be no overnight lighting. By Mr. Owen, seconded by Mr. Averill, and passed 4-0.

Other Business

Residential Lighting Regulations: Mr. McGuinness had provided samples of lighting regulations from other Ct. towns. It was the consensus that just as the Commission had avoided having to measure decibels in its regulations governing noise generating equipment, it should steer clear of having to measure foot candles in any lighting regs. Mrs. Hill suggested a chart be used to illustrate the types of lighting fixtures permitted and not permitted. Light that can be seen from off the property was discussed. It was the consensus this meant the light source should not be seen from off site as it would be impossible to prevent all light from being seen from off site. Mr. Ajello noted Branford's regulations require that "sky glow" be minimized. It was agreed provisions for security lighting would have to be included and it was noted non glaring light directed toward the building to be protected had been proven to be the most effective. The lighting of sports courts should be addressed, also. Mr. Owen thought perhaps regulating the height of the light fixtures might be one way to control this type of lighting. Although it is commercial lighting, Mr. Ajello said overnight window display lighting had recently been a problem and should be addressed in the regulations. Mrs. Friedman pointed out that enforcement, especially being able to prove what type of lighting had existed on any property before adoption of lighting regulations, would be very difficult. Mr. Ajello noted that once regulations were adopted, lighting would be part of all site plan reviews. Mr. Averill suggested that standards for high pressure sodium, mercury vapor, and metal halite lighting be addressed, noting that while they might be overly bright or glow, they were more energy efficient. It was also agreed the shielding of entrance lighting and the environmental impacts of lighting should be addressed. Mr. Owen volunteered to work on a first draft.

Revision of the Zoning Regulations: It was noted public hearings to consider the following revisions were scheduled for October 23:

1) Section 4.4.17: accessory structures at pre existing golf courses, 2) 6.6: deletion of the term, "rowing shell dock," 3) 6.6.10: materials that may be used for the construction of docks, 4) 6.4.6: clarification re: what constitutes a fence, and 5) 21.1.28: revision of the definition of fence. Letters regarding rowing shell docks have been received and copies will be mailed to the commissioners prior to the hearing.

Privilege of the Floor

Residential Lighting: Mr. Dugan, Findley Road, and Mr. Papsin, Mygatt Road, voiced their concerns regarding excessive residential lighting in Town, especially overnight landscaping lighting. Mr. Papsin also urged the Commission to include stricter regulations for

commercial lighting because, he said, the amber lights in New Preston light up the whole sky. Mr. Owen noted that darkness is a precious natural resource and the commissioners agreed wholeheartedly with the points raised by Mr. Dugan and Mr. Papsin. It was suggested that a Town ordinance might be a more effective way to deal with this matter because "grandfathering" would not then be an issue. Mr. Owen said he would consult with the Board of Selectmen. The need to education the public was also noted. Mrs. Hill suggested the Conservation Commission might have some ideas about how to do this.

Enforcement

Mr. Ajello noted the Aragi first cut approved at last month's meeting was invalid due to incorrect information, which had been provided with the application. He also noted there were several matters now being dealt with by the Inland Wetlands Commission that would soon progress to Zoning.

Mr. Owen noted the Zoning Fine Ordinance would be on the agenda for consideration at the next Town meeting.

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

Mr. Owen adjourned the meeting at 9:14 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator