

September 26, 2011

Present: David Owen, Lou Abella, Gary Fitzherbert, Ray Reich, Ralph Averill

Alternates Present: Harry Wyant

Absent: Andy Shapiro, Alt., A.J. Dubois, Alt.

Staff Present: Shelley White

Others Present: Ms. Martin-Ebner, Mr. Szymanski, Engineer, Atty. Fisher, Mr. Klauer, Mr. Rogness, Mr. & Mrs. Solomon, Mr. & Mrs. Peacocke, Mrs. Federer, Mr. Solley, Ms. Purnell, Mr. Hyde, Mr. Werkhoven, Ms. Bishop-Wrabel, Mr. Solley, Press, Residents

Mr. Owen called the meeting to order at 7:34 p.m.

Seated: Mr. Owen, Mr. Abella, Mr. Fitzherbert, Mr. Averill, Mr. Reich

PUBLIC HEARING(S)

Continued

Wykeham Rise, LLC/101 Wykeham Road/Special Permit: Section 4.4.10/School:

Mr. Owen read the list of documents added to the file since the August 22, 2011 Public Hearing. Mr. Owen explained that Mr. Shapiro, an alternate commissioner, would normally be seated since he was present for this Public Hearing last month, standing in for Mr. Reich. He stated that since Mr. Shapiro was not present and Mr. Reich had listen to the recording of the August 22, 2011 Zoning Commission Meeting and reviewed the documents on file that Mr. Reich could be seated tonight. Mr. Owen stated that the Land Use Office received site and floor plans today and the Commissioners have not had the chance to review them and he read Section 2.4 Public Hearing Submissions of the Zoning Regulations. He suggested that the Commission refuse to consider the documentary evidence that has been submitted after the fifteen day cut off. Mr. Owen stated that the Zoning Commission couldn't act on this application until the Inland Wetlands Commission has acted. He stated that after the Inland Wetlands Commission has acted the Zoning Commission could approve or deny the application based on what has been submitted prior to the 15 day cut off or they could deny the application based on the fact that a lack of information submitted in order for the Commission to make a decision. Mr. Owen stated that the applicant could also withdraw the application and submit a new, complete application at a later date. He stated that no one needed to make a decision tonight because the Inland Wetlands Commission has not acted on this application at this time.

Mr. Owen stated that at the August meeting the Commission and the staff noted that the drawings that were submitted were too small and they would need better, more complete drawings. He stated that the Commission also noted that it is not sufficient to reference the previously approved application for the Zoning Commission's consideration of this new and separate application and that all materials that are to be considered should be included in the file for this application.

Atty. Branse stated that Mr. Aubrey of Town Engineering joins him and that an engineering review of the plans that were in the file as of

Friday September 23, 2011 was requested by their client and at their client's expense. He stated that they would like to have the opportunity to present this report verbally at this public hearing.

Atty. Fisher was present on behalf of the applicant. He asked if the Commission would consider scheduling a special meeting so that the recent submission could be considered and that everyone could be heard.

Mr. Owen stated that Section 2.4 was added to the Zoning Regulations upon suggestion of Town Counsel to avoid this type of situation. He stated that this application was incomplete as of 15 days prior to this public hearing and that he feels that it is in the best interest of everyone to consider a complete application that meets the Zoning Regulations at a later date.

Atty. Fisher stated that he disagreed with this 'heavy handed approach' because these engineering reports take time.

Mr. Klauer stated that he understands Mr. Owen's point but that some of the delays are due to the fact that they are dealing with two separate commissions and some of the requests from the Zoning Commission are subject to the decisions of the Inland Wetlands Commission.

Mr. Owen stated that some of the very basic requirements were not submitted with the application or within fifteen days of the continuation of this public hearing and this is why Section 2.4 was added to the Zoning Regulations.

Mr. Abella stated that Mr. Owen's point is well taken. Mr. Fitzherbert agreed with Mr. Abella and stated that he was confused as to why the public hearing could not be continued. Mr. Owen stated that continuing the public hearing is an option. He stated that if the Zoning Commission chooses to close the public hearing and make it's decision based upon what was submitted prior to fifteen days ago and if the applicant is denied they may apply again with the same materials and hopefully, a complete application. The Commissioners briefly discussed the incompleteness of the application and how long it would take to schedule a public hearing for a new application from the applicant. Mr. Averill stated that he agreed with Mr. Owen.

Motion:

to close the Public Hearing for Wykeham Rise, LLC/101 Wykeham Rise/Special Permit: Section 4.4.10 for a school, by Mr. Owen, seconded by Mr. Averill, passed by 5-0 vote.

REGULAR MEETING

Consideration of the Minutes

The minutes of the August 22, 2011 Zoning Commission Meeting were considered.

Corrections:

Page 3, 2nd to last paragraph, 3rd sentence should read: He stated that if there are specific parts of the approved application that are meant to be part of the application then they would need to be included with this application

Motion:

to accept the Zoning Meeting Minutes of August 22, 2011, as amended, by Mr. Fitzherbert, seconded by Mr. Averill, passed by 5-0 vote.

New Application(s)

There were no new applications.

Pending Applications

Shepaug Valley Properties, LLC/27 Mt. Tom Road/Special Permit: Section 17.8/Expansion of Nonconforming Use/Camp:

The Public Hearing was closed for this application at the August Zoning Meeting and the Zoning Commission is waiting for the Inland Wetlands Commission to act.

Wykeham Rise, LLC./101 Wykeham Road/Special Permit: Section 4.4.10/School: The Public Hearing was closed and the Zoning Commission cannot act on this application until the Inland Wetlands Commission act.

Other Business

Response from Atty. Zizka re: New Members on the Commission:

Mr. Owen stated that Atty. Zizka stated that the newly elected members to the Commission would have to familiarize themselves with any currently open public hearings if the newly elected members had not been present at the public hearings previous to their appointment. He stated that this letter from Atty. Zizka is on file in the Land Use Office.

Parking at the Community Table/223 Litchfield Turnpike:

Mr. Owen read a letter from the owner of the Community Table, Mr. Anderson, dated September 23, 2011 (on file in the Land Use Office). He stated that the Zoning Commission had asked that the owner come back to them with some possible solutions to the problem. Mr. Owen stated that there is a question as to whether using the front porch to seat and serve cocktails to waiting patrons is in compliance with the special permit granted to them. He suggested that the matter be looked into by the ZEO, Mr. Ajello, and that Mr. Ajello should consult with the Town Sanitarian and the Selectmen. Mr. Fitzherbert stated that he has driven by the restaurant and noticed that the neighbors lot has not been used. Mr. Solley stated that he does not know if Mr. Anderson has considered a couple parking spaces to the right of the building. He stated that he drove by on a Sunday morning and saw about 6 cars parked in the Dobson parking lot and about 3 cars parked on Wilbur Road and the restaurant parking lot was not filled. Mr. Solley stated that his personal opinion as a Selectman is that he would rather not put up “no parking” signs on Wilbur Road as other businesses along that road have historically parked on the right of way. Mr. Owen asked if a possibility would be to allow the restaurant owner to improve the shoulder for parking. Mr. Solley stated that it could be considered with a limit of the maximum number of cars allowed to park there and that he feels that if the restaurant would take reservations that this problem

would be solved but he feels that they are resistant to this idea.

Mr. Owen stated that the Special Permit allows for 36 seats and the porch is not described as a cocktail area.

Mr. Hyde stated that he would like to see Mr. Anderson address the suggestions that were given to him from the Zoning Commission. He stated that the Dobson parking lot would be able to accommodate all of the employee parking and that it encourages other people to park on Wilbur Road when people they see that there are cars already parked there. Mr. Hyde stated that there are many times that cars are parked on Wilbur Road and the parking lot at CT is totally empty.

It was the consensus of the Zoning Commission that they would ask the ZEO to pursue this as an enforcement issue in consultation with the Selectmen.

Possible Revision of the Zoning Regulations – Compact Sized Parking Spaces:

Mr. Fitzherbert read and submitted proposed language that would add provisions for compact size parking spaces in the Zoning Regulations. The Commission agreed that a Public Hearing should be scheduled for the consideration of the revision to section 15.1 General Requirements. Motion:

to schedule a Public Hearing on November 28, 2010 in the Land Use Meeting Room, Bryan Memorial Town Hall, at 7:30 to consider a Possible Revision of Zoning Regulation 15.1 General Requirements re: Compact Size Parking Spaces, by Mr. Reich, seconded by Mr. Averill, by 5-0 vote.

Privilege of the Floor

Mr. Fitzherbert requested that Mr. Owen write a statement regarding his recommendations concerning the Zoning Regulations pertaining to Telecommunications before he resigns from the Zoning Commission. Mr. Owen stated that he would consult with Atty. Zizka regarding this issue. Mr. Owen and the Commission discussed the Siting Council and the municipality's preferences. The Commission discussed the regulations and the Town Emergency Communication System.

Communications

There were no communications to discuss.

Zoning Enforcement

The Commission considered the Zoning Enforcement Report dated 9/26/11.

Adjournment

Motion:

to adjourn at 8:40 pm.

by Mr. Fitzherbert, seconded by Mr. Averill, passed by 5-0 vote.

Mr. Owen adjourned the meeting.

SUBMITTED SUBJECT TO APPROVAL:

Shelley White, Land Use Clerk,