

Zoning Commission

MINUTES

Public Hearing - Regular Meeting

April 25, 2016

7:30 p.m.

Main Level Meeting Room

MEMBERS PRESENT: Mr. Solley, Mr. Averill, Mr. Reich, Mr. Werkhoven
MEMBERS ABSENT: Mr. Brinton
ALTERNATE PRESENT: Mr. Solomon, Mr. Burnham
STAFF PRESENT: Mrs. Hill, Ms. Pennell
ALSO PRESENT: Mr. Neff, Atty. Kelly, Mr. Verrastro, Mr. Tierney, Mr. Decker, Mr. Ebersol, Mrs. Natale, Ms. Newell, Mr. Alexson, Mr. Dobson

Mr. Solley called the meeting to order at 7:30 p.m.

Seated: Members Averill, Reich, Solley, Werkhoven and Alt. Burnham

PUBLIC HEARINGS:

**Verrastro/5 Bryan Plaza/Special Permit: Section 8.6/
Reduction of Minimum Setback Requirement for Propane Tank:**

Mr. Verrastro was present. He stated that they are proposing to put in an air conditioning/heating system. Mr. Verrastro stated it is a propane fire heat unit, 100 gallon and will be located behind the building above ground behind the two properties. Mr. Verrastro showed a map with the exact dimensions of the propane unit and its dimensions. Mr. Solley asked if the unit will be seen from the plaza. Mr. Verrastro stated it would not be visible from the road or the plaza and if it was, he would put in plantings. Mr. Solley asked Mr. Verrastro if he would mind this becoming a condition as part of the approval process. Mr. Verrastro said no.

Mr. Solley asked if the Public had any questions. There were no questions from the Public or Commission members.

MOTION: To close the public hearing to consider the Special Permit application: Section 8.6 submitted by Mr. Verrastro to reduce the minimum setback requirement for a propane tank at 5 Bryan Plaza. By Mr. Werkhoven, seconded by Mr. Averill, passed 5-0.

Dobson/295 New Milford Turnpike/Special Permit: Section 9.4.1.D/Enclosure-Addition to Restaurant:

Mr. Dobson was present and showed plans for Proposed Building Addition Site Plan by Brian Neff, P.E., dated 03-26-16, Sheet 1 of 1.

Mrs. Hill noted for the record that Mr. Dobson has Inland/Wetlands, Health Department and ZBA approvals.

Mr. Dobson stated that a new septic system has been installed. The Commission reviewed maps provided to see where this addition will be constructed. Mr. Dobson stated it will not be visible from the road.

Mr. Solley asked if the Public had any comments. None noted.

For the record it was noted that no letters were submitted for or against this application.

MOTION: To close the public hearing to consider the Special Permit application: Section 9.4.1.D submitted by Mr. Dobson for an enclosure-addition to the existing restaurant at 295 New Milford Turnpike. By Mr. Solley, seconded by Mr. Reich, passed 5-0.

Mr. Solley seated Alt. Solomon for Mr. Burnham.

Decker/96 Kinney Hill Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

It should be noted that a letter dated 03-01-16 from Weantinoge Heritage Land Trust was received and is on file in the Land Use Office. The letter stated Weantinoge Heritage Land Trust states that they have reviewed and approved the proposed site plans for the construction of this detached guest house located on 96 Kinney Hill Road.

Mr. Brian Neff and Mrs. Diane Decker were present. Plans were reviewed for the Proposed Site Plan for Detached Guest House dated 01-30-16, revised date of 03-21-16, prepared by Mr. Brian

Neff, Licensed Engineer. Also shown were Elevation Plans dated 06-02-2002 prepared by House Plan Gallery. The Commission reviewed the plans.

Mr. Solley had a concern about this detached accessory apartment because it looked like a second home on this property. He referenced Zoning Regulations 21.1.3, which defines a Detached Accessory Apartment as being "an accessory apartment that is contained in an accessory structure or that the Commission deems detached because the physical connection appears to be primarily for the purpose of receiving favorable treatment under the Regulations." Mr. Solley explained that when the Zoning Commission established this regulation it did not want the appearance of two houses on a building lot. His concern is that with regards to this application, this accessory building is a single standing second dwelling.

Mr. Neff stated that in terms of location of the building, the main house is up near the road and the accessory building is buffered by 150 ft. of woods that will remain. He stated that when you drive up the driveway you cannot see this building. Mr. Neff noted that it qualifies as a dwelling unit. He noted that an alternative would be to build a barn, put the driveway in and come back to the Commission and ask to convert this to a detached accessory apartment. Mr. Neff noted that there is a Conservation Easement around the back of the proposed building. He further stated that other similar applications he has worked on in the past have been approved. He feels this detached accessory apartment is better screened than any of these previous applications Mr. Neff represented in the past.

Mr. Solley asked if the Public had any comments. A member from the public asked what if they subdivided the property and made two lots out of it. Mr. Neff stated that this would not be possible due to a majority of the 10 acres having a Conservation Easement in place and subdividing would not be possible.

The Commission nor Public had any other questions.

MOTION: To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mrs. Decker for a detached accessory apartment at 96 Kinney Hill Road. By Mr. Averill, seconded by Mr. Werkhoven, passed 5-0.

D. Depot Green, LLC/6 Green Hill Road/Section 8.3.7/Change of Use to Real Estate Office:

Atty. Peter Ebersol was present representing William Pitt Sotheby's Realty. He noted that the septic system has now been approved by the Health Department on 04-25-16. Atty. Ebersol distributed floor plans dated 03-24-16. He explained the amount of staff that will be in the office at any given time. A Statement of Use letter dated 04-24-16 from Kristine Newell, Regional Brokerage Manager for William Pitt Sotheby's Realty, is on file for review. This was to address parking concerns that the Commission had raised. Discussion did ensue on parking issues and in conclusion, it was agreed by parties involved with this application and the Commission that the parking provided is public parking owned by the Town of Washington.

Ms. Newell informed the Commission that she has spoken with agents that will be working at this office location. She stated that all of the employees are in agreement to park further away at other available Town parking so as to not keep the parking spots located in front of this business occupied for extended periods of time. Ms. Newell stated they will work with the community as they always have and respect the parking situation. Mr. Solley inquired as to their peak time of business. Ms. Newell stated that during the week would be peak time for agents being in the office, no staff on weekends, and one monthly morning meeting is held. Ms. Newell noted that they have discussed their monthly meeting that and will look into holding this meeting on a Monday, as the Pantry is closed Monday and this may allow for more available parking.

Upon Mr. Solley's questioning, Mrs. Natale stated that she has sent notices to all of the property owners adjoining 6 Green Hill Road that were farther away, as she wanted them to be aware of what was happening and have the opportunity to voice their opinions on this application.

Mr. Solley noted that five letters were submitted in support of this application and were on file for review.

Mr. Solley asked the Public for any questions or comments. Mr. Tim Tierney, who owns the other half of the building adjoining Mrs. Natale's, stated that he was concerned with the parking issues and has done research on it. Although concerned with the parking issue, Mr. Tierney feels it can be worked out and is in favor of Sotheby's moving into this space. He did note that he has a new tenant as well and is not sure what her parking needs will be, but noted that everyone will need to be cooperative.

Mr. Millington, member of the Public, stated that he is in support of the application and pleased to have an empty store front filled. He is concerned over the amount of empty store fronts in the Depot and hopes the Town will work towards resolving this concern.

Atty. Kelly, member of the Public, stated that he feels this is an ideal use for the space. He feels realtors most of the time are out working with their clients. Atty. Kelly added that the Town has a Plan of Development that is now ten years old and has repeatedly urged the Town to do something about the parking in the Depot. Atty. Kelly is in full support of this application.

MOTION: To close the public hearing to consider the application: Section 8.3.7 submitted by Depot Green, LLC for a change of use to a real estate office at 6 Green Hill Road. By Mr. Averill, seconded by Mr. Reich, passed 5-0.

REGULAR MEETING:

Seated: Members Averill, Reich, Solley, Werkhoven and Alt. Burnham

Consideration of the Minutes:

MOTION: To accept the 3/28/16 Public Hearing-Regular Meeting Minutes as written. By Mr. Averill, seconded by Mr. Reich, passed 5-0.

**Verrastro/5 Bryan Plaza/Special Permit: Section 8.6/
Reduction of Minimum Setback Requirement for Propane Tank:**

It was noted that the Health Department has approved application already. No other discussion was held and no questions noted.

MOTION: To approve the Special Permit application: Section 8.6 submitted by Mr. Verrastro to reduce the minimum setback requirement in order to install a propane tank at 6 Bryan Plaza. By Mr. Averill, seconded by Mr. Reich, passed 5-0.

**Dobson/295 New Milford Turnpike/Special Permit: Section
9.4.1.D/Enclosure-Addition to Restaurant:**

Mr. Averill pointed out that this is a State required law for this addition for handicap accessible restrooms. Mr. Solley stated that Zoning Board of Appeals has approved the Variance.

No further discussion was held and no questions.

MOTION: To approve the Special Permit application: Section 9.4.1.D submitted by Mr. Dobson for an enclosure-addition to the existing restaurant at 295 New Milford Turnpike. By Mr. Werkhoven, seconded by Mr. Solley, passed 5-0.

Decker/96 Kinney Hill Road/Special Permit: Section 13.11.3/Detached Accessory Apartment:

Seated: Members Averill, Reich, Solley, Werkhoven and Alt. Solomon.

Mr. Averill stated he feels this detached accessory apartment is subordinate to the principal dwelling as per the plans presented and supports this application.

Mr. Werkhoven is in support of this application and feels it would not appear as two homes on this property.

Mr. Solley was not in support of the application as he felt the plans looked like two single family dwellings on the same lot instead of one building being accessory to the other.

No further discussion was held and no further questions.

MOTION: To approve the Special Permit application: Section 13.11.3 Submitted by Mrs. Decker for a detached accessory apartment at 96 Kinney Hill Road. By Mr. Averill, seconded by Mr. Werkhoven, passed 4-1. Mr. Solley voted no.

D. Depot Green, LLC/6 Green Hill Road/Section 8.3.7/Change of Use to Real Estate Office:

Mr. Solley stated for the record that the Commission will be having an administrative vote on this application based on the Zoning Enforcement Officer, Mike Ajello, requesting the Commission do so, feeling it best handled by the Commission and allowing for a Public Hearing.

Mr. Averill stated that he is in support of this application. He feels that empty store fronts are not good for the Town and this will be an improvement. Mr. Averill believes that the parking concern will be handled appropriately with those involved. Mr. Werkhoven concurred with Mr. Averill.

MOTION: To approve the application: Section 8.3.7 submitted by

Depot Green, LLC for a change of use to real estate office at 6 Green Hill Road. By Mr. Averill, seconded by Mr. Reich, passed 5-0 vote.

NEW APPLICATIONS:

Laffont/10 Sunrise Lane/Special Permit: Section 13.11.3/Detached Accessory Apartment:

MOTION: To schedule a public hearing to consider the Special Permit application: Section 13.11.3 submitted by Ms. Laffont for a detached accessory apartment at 10 Sunrise Lane for Monday, May 23, 2016 at 7:30 p.m. in Bryan Memorial Town Hall. By Mr. Solley, seconded by Mr. Werkhoven, passed 5-0.

OTHER BUSINESS:

Alexson/88 Tinker Hill Road/Trailer-Storage Structure:

Mr. Alexson was present. Mr. Solley asked Mr. Alexson how long this trailer has been on his property and Mr. Alexson replied 12 years. He stated that if he moved the trailer back 8 ft. it would be within the side setback. Mr. Solley asked Mr. Alexson if he could move this trailer to a location on his property where it could not be seen. Mr. Alexson said no as it would become visible from a neighbor's home. Mr. Alexson presented a survey map showing the property lines. Mr. Solley stated before further discussion regarding moving of this trailer, the Commission needs to determine if in fact this is a legal structure on this property. Mr. Solley referenced Zoning Regulations 12.8.2 and 12.8.3, which addresses non-conforming temporary buildings. Mr. Solley noted that Mr. Alexson uses this trailer as an accessory building, but it is not as it has wheels and an axle. Mr. Alexson stated he uses the trailer for storage. Mr. Reich asked Mr. Alexson if this trailer was hooked up could it be moved. Mr. Alexson was unsure and stated it may need new tires. He also stated that this trailer cannot be registered with Department of Motor Vehicle as it has no brakes. Mr. Alexson then asked if he poured four posts, placed the trailer on the posts, within the setbacks would this be considered a building. Mr. Solley stated that would be Building Official, Bill Jenks', decision.

Atty. Kelly then spoke. He stated he represents his client, Dr. Bazos. Atty. Kelly stated that this is the first time he and Dr. Bazos have been made aware of this issue. He stated that he is concerned that this applicant was not unrepresented by counsel.

He said the trailer was a clear violation of the Zoning Regulations and is the Commission should not consider allowing this violation to remain.

Mr. Solley understood Atty. Kelly's concerns. The Commission agreed that this trailer on Mr. Alexon's property does not comply with the Zoning Regulations and needs to be addressed.

Mr. Alexson stated that he will meet with Building Official, Bill Jenks, to discuss putting the trailer on sonotubes and converting the trailer to a building in a location that meets the setback requirements. Mr. Solley requested this be done in a timely manner. Mr. Alexson will update the Commission before its next meeting.

Preliminary Discussion/Whalen/278 Litchfield Turnpike/Dog Therapy Business

Mr. Jeffrey Phillips, real estate agent with Sotheby's Realty and Ms. Angela Erickson-Greco, DVM, who is looking to purchase the property if in fact Zoning can change the property asked if the use could be changed from retail to service.

Mr. Phillips stated that the property is currently under contract for sale with the condition that the property could be converted to service for a dog therapy business. Questions arose as to what the property is actually zoned for. Mr. Solley clarified that ten to twelve years ago, the Commission removed this section of Woodville from the legally the Business District and so it was now zoned residential.

Mr. Solley asked questions in regards to the business itself and what it involved. Ms. Erickson-Greco explained what her business entailed. She stated there would be no boarding of animals or any type of animal runs. Ms. Erickson-Greco is a veterinarian who performs animal acupuncture, chiropractic care, regenerative medicine and herbal medicine as an alternative or complement to conventional care of animals. She stated she is a referral based business and currently leases a building in Bantam. She would like to own her own building to operate her business in.

Discussion took place amongst Commission members on the history of the Woodville Business District and the businesses that are in this area. Questions arose as to the options available to change the Zoning district. The existing building on the

property did have both commercial and residential space within it. This applicant is looking to have the entire space zoned for commercial use.

Atty. Kelly stated that he believes Zoning Regulations 17.6 B and C allow the Commission to approve this request as a Special Permit. The applicant would like a Public Hearing to be on the agenda for the May meeting. However, Mrs. Hill clarified that this is not possible per counsel's advice. Counsel states that a Special Permit application is to be presented to the Commission at one meeting and then schedule the Public Hearing for the following meeting.

After reviewing Zoning Regulations 17.6 B and C, Mr. Solley felt that the applicant could meet in the Land Use office to go over this information further and know what direction to go in. However, Mr. Solley did inform the applicant that a hearing could be scheduled for the June meeting.

Referral from Planning Commission: Ingrassia/292 Bee Brook Road/6 Lot Subdivision

Atty. James Kelly and Brian Neff, engineer, were present for this application. Mr. Solley noted the uniqueness of this 6 lot subdivision application as it proposes two right of ways going over a single bridge. The Zoning Regulations do not define right of way, but only accessways. Mr. Neff gave the history of why and how the bridge was designed. He pointed out that constructing this bridge over Bee Brook was the logical way to go, as otherwise placing bridges every 200 feet over Bee Brook would not be something Wetlands would favor. Mr. Neff stated that it was built to serve as a roadway or shared driveway due to having a major water course to cross. Mr. Neff also noted his revisions to the upper portion of the driveway meet Fire Marshal's request. Atty. Kelly and Mr. Neff showed the Commission Site Development Feasibility Plan dated 08-24-15, revision date of 04-25-16 drawn by Brian Neff, noting the changes made.

Discussion took place between the Commission and Atty. Kelly with regards to the history of the application. Atty. Kelly referenced Commission's counsel, Atty. Olsen's, letter dated March 28, 2016 addressing the questions raised by the Zoning commissioners and Land Use staff. Also discussed was possible future plans the Ingrassia's have for these lots.

Mr. Neff explained the drainage plan for this property and addressed questions from the Commission. He noted all lots have been approved by the Health Department. Mr. Neff feels this is the best plan for this property, especially in supporting the preservation of Bee Brook.

Mr. Solley noted that the Planning Commission referred this matter to Zoning Commission to determine whether the proposed subdivision plan complies with the Zoning Regulations. The seated members were all in agreement that the application conforms to the Zoning Regulations.

Mr. Solley asked if the Commission members have any questions regarding this application. None noted.

MOTION: Regarding Ingrassia/292 Bee Brook Road/6 Lot Subdivision: based upon the unique and specific facts in this application and the site plan, "Site Development Feasibility Plan," by Mr. Neff, dated 8/24/15 and revised to 4/25/16 and guided by the 3/28/16 memorandum from the Commission's counsel interpreting the Zoning Regulations as to those facts, the Washington Zoning Commission has determined the proposed subdivision plan is in conformance with the Washington Zoning Regulations. By Mr. Averill, seconded by Mr. Solley, passed 5-0.

ENFORCEMENT REPORT:

Enforcement Report dated April 25, 2016 from Zoning Enforcement Officer, Mike Ajello, was distributed to Commission members for review.

MOTION: To adjourn the meeting at 10:15 p.m. By Mr. Solley, Seconded by Mr. Averill, passed by 5-0 vote.

By: _____
Donna Pennell
Land Use Secretary
May 2, 2016