

^Zoning Commission

MINUTES
Special Meeting
Tuesday, May 3, 2016

7:00 p.m.

Main Level Meeting Room

MEMBERS PRESENT: Mr. Averill, Mr. Solley
MEMBERS ABSENT: Mr. Brinton, Mr. Reich, Mr. Werkhoven
ALTERNATES PRESENT: Mr. Burnham, Mr. Solomon
ALTERNATE ABSENT: Mr. Sivick
STAFF PRESENT: Mrs. Hill
ALSO PRESENT: Mr. McGowan, Mr. Bedini, Mr. Charles,
Mr. Sherr

Mr. Solley called the meeting to order at 7:05 p.m., said this meeting would be the beginning of a discussion regarding philosophical changes to the Zoning Regulations, and introduced Mr. McGowan, executive director of the Lake Waramaug Task Force and past director of the NWCTCOG.

Mr. Solley thought the Commission should consider addressing four or five issues and suggested, based on a previous poll of the Zoning commissioners, that revisions pertaining to commercial districts or uses, protections for the Lake Waramaug District, and soil based zoning be taken up first. He also noted recent inquiries about reinstating all or part of the Woodville Business District and permitting off the premises directional signs for Town Landmark Sites and said those issues could also be addressed. He stated that whatever the revisions, the Zoning Commission wanted to be protective, but not overly burdensome on property owners.

Mr. Solley noted the Town's recent problems in attracting younger families and providing affordable housing. He said that although some had suggested that "tweaking" the soil based zoning regulations could help make prices more affordable, he thought there was more to the problem than just soil based zoning (SBZ.) He thought perhaps lot sizes could be decreased in the business districts rather than all over Town. Mr. Averill said that new technologies for septic systems had to be investigated. Mr. Solley also noted that the intent when SBZ had been adopted in 1978 was not only to control lot size, but also to control density. He said that Mr. McGowan had been the Commission's consultant when soil based zoning was first adopted and asked him to speak about it.

Mr. McGowan first provided background information. In the 1970's Washington had one acre zoning throughout Town. At that

time the Shepaug had been designated by the state as a potential public water supply watershed and no new sewage into the public watershed could be allowed. Also the current thinking at the state DEP was that one acre was not sufficient to ensure over the long term that a lot would remain suitable for the replacement of a septic system; that two acres were required. The state also amended the general statutes to permit zoning commissions to revise their regulations based on soil information and a new soil survey had been completed for the entire state. With that background the Zoning Commission had consulted the USDA, Mr. Cross, a soils specialist, and Atty. Merriam, a prominent state attorney specializing in planning and zoning, regarding the drafting of the SBZ regulations. Natural soil groupings based on the soils' capabilities were considered and after much study, the Zoning Commission implemented this system to assign lot sizes based on soil type. Mr. McGowan noted that while the state had given zoning commissions the right to regulate population density, and the soil classifications had stood the test of time, neither the state nor the USDA had opined on lot size. He said that in 2000 the SBZ regulations were revised to deduct wetlands, steep slopes, conservation easements, etc. from the density calculations, which resulted in slightly larger lot sizes across the board.

Mr. McGowan explained that Zoning has jurisdiction over lot size, but works in cooperation with Planning, who adopts the Town Plan of Conservation and Development (POCD.) He noted that in both the 2003 and 2014 Plans, the Planning Commission reaffirmed its commitment to SBZ. He advised the Zoning Commission to work closely with Planning on any changes to the SBZ regulations because if the Planning Commission finds they are inconsistent with the Plan, the Zoning Commission then requires a super majority to adopt them.

Mr. McGowan read from the 2014 POCD that recommended that higher density development be allowed in the village districts. He said there were several possible ways to accomplish this goal other than simply tweaking SBZ. One example given was to require a minimum buildable area instead of a minimum lot size. He said in Cornwall it must be shown that a lot has 20,000 sq. ft. of buildable land, which does not have steep slopes, wetlands, bedrock, conservation easements, etc. and must be contiguous and in the shape of a square or a rectangle. He said with few exceptions, the house, septic system, and accessory buildings must be located in the buildable area. Reasons for an exception would be to preserve a scenic view or a natural aspect of the property or that it would require less grading. Another way to decrease lot size, he said, would be to adopt 40,000 sq. ft. "acres" as opposed to the actual 43,560 sq. ft. acres used now.

However, Mr. McGowan stressed that he was not sure that decreasing lot size by any means, including tweaking SBZ, would accomplish the goal of making land more affordable and attracting younger people to Town. He explained there is a formula used by assessors to determine market value and that the first acre of a property makes up the major part of the assessment. He added that location, view, and the reval done every ten years also impact the market value. He said that Washington has an undeniable cachet and so might remain expensive even with smaller lot sizes.

Mr. Solley said the Town must acknowledge that many other area towns are experiencing the same problems. He was not sure that Zoning could provide a fix.

Mr. McGowan said the recommendations in the Town Plan would be the logical place to start and that perhaps a new zone that supersedes SBZ in the village centers might be considered. This zone might require a community water system to serve six to eight houses on smaller lots.

Another possibility, he said, would be to allow property owners who want to "spin off" a smaller lot for housing to sell the lot to the local housing trust, who would, in turn, once it was developed, regulate the sale price so moderate income buyers could purchase the property. He said this procedure would allow smaller lots to pop up all over Town rather than concentrating them in one zone or area.

Mr. Solley noted the current Zoning Regulations include setback requirements from wetlands and watercourses, which some property owners find onerous. He asked Mr. McGowan if these serve a useful zoning purpose and should be kept. Mr. McGowan explained the state had established model wetlands regulations, but said local Inland Wetland commissions may add to their jurisdictions the areas alongside the wetlands that they feel are important to regulate. He said Zoning commissions can create overlay zones with special uses and setbacks. He also said Zoning covers the whole town, while Inland Wetlands doesn't, and so Zoning is able to protect valuable resources beyond the jurisdiction of the Inland Wetlands Commission. He noted that more is being learned about the impact of development on wetlands and watercourses and about the need for native vegetative buffers to protect them. So he explained a Zoning overlay or setback was a valid way to protect lands that were beyond what could be protected by the Inland Wetlands Commission. He thought the 75 ft. area around Lake Waramaug currently regulated by the Zoning Commission was not enough. He also pointed out that the Inland Wetlands Commission reviews proposed activities on individual lots to determine whether they will have a negative impact on the resource, but he thought a more holistic approach to protect an

entire area would be more successful and he said that only Zoning could do that.

Specific problems around Lake Waramaug were discussed briefly. Mr. McGowan suggested that when lots bordering West Shore Road are split with a small parcel located on the shore and a larger parcel across the street, the Commission could require either that they be merged or that a dwelling unit may be constructed on only one of the two lots. He thought this would be one way to control development and to protect the health of the lake. He predicted there would be more pressure as time goes on to develop the smaller parcels around the lake. Mr. McGowan stated that the quality of applications and plans for stormwater management around the lake is improving, but he cautioned that drainage systems don't work if they aren't maintained. He questioned how a small town could ensure the maintenance of cul tec systems, rain gardens, etc. As an example of how the buffer around Lake Waramaug could be protected, Mr. McGowan said Warren had adopted a zoning regulation to prohibit the disturbance of more than 50% of the natural vegetation within 100 feet of the lake.

Mr. Solley asked if it would be a good idea to require that roof and driveway runoff be directed to infiltration systems. Mr. McGowan responded that would be helpful and easy to do. Mr. McGowan stated that good, clear stormwater management regulations are needed. He said it was not enough that they state that water quality must be protected because that is too general a standard. He stressed these regulations must be strongly worded and specific. Mr. Solley asked if it would be more important for Zoning to generally limit impervious surfaces and increase setbacks or to work on specific standards to protect water quality. Mr. McGowan thought stormwater management was more important. He stressed that low vegetative buffers should be required and lawns limited. He noted that states like Maine, New Hampshire, and Vermont all have "tremendous" setback requirements and strict limits for tree cutting around lakes because they understand that protecting water quality also protects property values.

Mr. Solley spoke briefly about the need for assisted living and residential health care facilities and smaller homes and condos in Town. He gave a brief history of the adoption and then rescinding of the multi family zone in Washington.

Mr. McGowan advised the Commission to review the POCD to find out what the community wants and again noted that document calls for a greater mix of housing types and an increase in density in the village centers. Another way to accomplish this, he said, would be the adoption of floating zone regulations. The standards for such a zone would be specific, but the zone would

not be located on a map when the regulation was adopted. When a developer had a parcel he thought could accommodate condos, smaller lots, etc. he would first have to apply to the Commission for the zone change for the floating zone. If the Commission found it would be appropriate for the neighborhood and approved it, the applicant would then apply for the proposed use. Mr. McGowan said the process was cumbersome, but would work if the Commission had well defined criteria under which it would approve these zones. He said, for example, that the Commission could specify a maximum number of units allowed on the parcel, require the units look like homes, require the zones be located not too far from the center of town, etc. Mr. Solley thought floating zones could provide flexibility. Mr. McGowan added that this was not considered spot zoning.

Mr. Solley thanked Mr. McGowan for attending and said he had given the Commission a lot of information to think about regarding key complex issues.

MOTION: To adjourn the meeting. Mr. Averill.

Mr. Solley adjourned the meeting at 8:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill
Land Use Administrator