

**TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, CT 06794**

ZONING COMMISSION MINUTES

Public Hearings - Regular Meeting

August 24, 2015

Present: Mr. Reich, Mr. Solley, Mr. Averill, Mr. Sorce,
Mr. Werkhoven and Mr. Sivick, Alt.

Absent: Mr. Wyant, Alt.

Staff Present: Mrs. Hill, Mrs. Nelson

Others Present: Mr. Harris, Mr. Studer, Atty. Kelly,
Mr. Fowler, Mr. Macmillon, Mr. & Mrs. Millington
Mr. Sherr, Mr. Bedini, Mr. Charles, Mr. & Mrs.
Solomon, Mr. Sedito, Mrs. Mackesey

The Chairman called the Public Hearing to order at 7:30 p.m.

Seated: Mr. Reich, Mr. Solley, Mr. Averill, Mr. Sorce, and
Mr. Werkoven

**Harris/254 New Milford Turnpike/Special Permit: Section: 13.13
Housing in the Business District/Commercial Use in a Residential
Building.**

Mr. Harris introduced his professional team. Mr. Studer, Designer, Mr. Fowler, Engineer and Mr. MacMillin, Architect. Mr. Harris gave an overview of his project. Mr. Harris said he has the opportunity to purchase neighboring property to the White Horse Restaurant. With this purchase he will be able to locate a new septic system across the river for the restaurant and the apartment building. Once the apartment septic is abandoned, he will be able to use the space for a parking lot. Mr. Harris also proposes to expand the restaurant to encompass a new kitchen. There would be space for a walk-in cooler and Freezer and additional seating.

Mr. Studer addressed the commission and looked at map SD.2. He showed on the map the proposed septic system. Mr. Studer distributed two handouts titled SDA Response to 7/27/15 Janet

Hill Review, one for 254 New Milford Turnpike and one for 258 New Milford Turnpike. Mr. Studer started to address the wavier and lot line revision applications. Mr. Solley interrupted to bring the discussion to the application first on the agenda concerning Housing in the Business District. Mrs. Hill said the first order of business was about putting the office and storage in the basement of the apartment building. Mr. Studer said that these buildings were built prior to existing zoning and they had been owned and operated as housing in a business district. In Building A, plans have been submitted for basement storage and a chef's office. Mr. Solley asked what is the current usage of this space? Mr. Harris said currently the basement holds storage units for the tenants. Mr. Studer said they are asking for housing in the business district per 13.13 and 9.4.1.I to allow storage in that building. In accordance with 9.4.1.F they are looking to allow the business office. Mr. Solley said that physically the areas that we are dealing with for the Public Hearing refer to the office and storage unit in Building A. Mr. Solley read a letter into the record from Mr. Toussant, a neighbor, in support of Mr. Harris's application. Mr. Solley asked if there were any comments from the public. Mr. Millington spoke in favor of the application and praised Mr. Harris for his efforts. Mr. Sedito also spoke in favor of the application. Mr. Solley said the hearing would be continued because Land Tech has not supplied the commission with a report and there has not been a sign off on the septic system. Atty. Kelly asked to address the commission. He said there was no discussion of the legal ramifications of the use of one property to permanently serve the business on another without permanent easements or the merger of those lots. Mr. Studer said the legal language would be addressed at a later time in the application process. Mr. Fowler, Engineer, explained in detail to the commission how the proposed septic system would work.

MOTION: To continue the public hearing at 7:00 p.m. on Monday, September 14, 2015 in the Main Level Meeting Room, Bryan Memorial Town Hall to consider Harris/254 New Milford Turnpike/Special Permit: Section 13.13/Housing in the Business District. By Mr. Source, seconded by Mr. Averill, passed 5 - 0 vote.

Seated: Mr. Reich, Mr. Solley, Mr. Averill, Mr. Sorce, and Mr. Werkoven

Harris/258 New Milford Turnpike/Special Permit: Section 9.4.1.D/Addition to Eating and Drinking Establishment, Two Parking Lots, etc.

Mr. Studer addressed the commission concerning parking and shared parking and submitted "Zoning Data" chart dated 8/6/15. He said the minimum parking requirement is 25 and the maximum is 46, existing is 21 with additional parking across the street. With this application they are asking for the expansion of the restaurant and also shared use parking and the increase of maximum parking. Mr. MacMillan, Architect, said he did the design of the renovation and showed the commissioners "Sketch Plans", Sheet A-101, by MacMillan Architects, revised to 8/6/15. He discussed what materials are to be used on the exterior. The same roofing and stone that is there now will be used. He also pointed to the new kitchen design and seating area compared to the old kitchen. There was a discussion on seating and size of kitchen to accommodate the seating. The discussion turned to the parking situation. Mr. Solley asked if the existing gravel parking area was to be paved. Mr. Harris said that it would be paved with lines to mark parking spaces. Mr. Solley was concerned about the buffer between the apartment building and proposed parking lot and wondered if Mr. Harris would consider giving up two parking spaces to increase the buffer zone. Mr. Studer said that with shared parking the buffer zone is not required. Mr. Solley said one of the issues Land Tech will deal with is the run off from the parking area. The applicant is proposing a rain garden that will catch rain run off before it goes into the river. Mr. Studer said perk tests had been done and it tested ok. Mr. Fowler spoke about runoff and the benefits of bio-filters. Mr. Solley asked if the septic system required septic fill. Mr. Fowler said they had excellent test holes. He then discussed the proposed septic system.

Mr. Solley asked if the public had any questions or comments. Atty. Kelly said he applauded what Mr. Harris is doing for safety. He asked Mr. Harris if he considered a single entrance and exit to the proposed parking lot and if he considered angled parking.

Mr. Studer submitted sight distances that were performed by the state. There was a discussion on plantings and screening. Mr. Sedito asked about parking and if parking across the street would be controlled. Mr. Harris said that for safety reasons he will continue to provide a parking attendant. Mr. Studer said they are trying to maximize on parking on the restaurant side and will do their best to discourage parking across the street. He said that's why they are asking for consideration for the shared parking, to go over the property line and to minimize the buffers.

MOTION: To continue the public hearing at 7:00 p.m. on Monday, September 14, 2015 in the Main Level Meeting Room, Bryan Memorial Town Hall to consider Harris/258 New Milford Turnpike/Special Permit: Section 9.4.1.D/Addition to Eating & Drinking Establishment, Additional Parking, etc. By Mr. Source, seconded by Mr. Averill, passed 5 - 0 vote.

Seated: Mr. Reich, Mr. Solley, Mr. Averill, Mr. Sorce, and Mr. Werkoven

Harris/254 and 258 New Milford Turnpike/Special Permit: Section 9.5.2-request for wavier of Section 3.2 and Section 9.5.3 - requests to relax Section 11.6.1 re: minimum setback requirements

Mr. Solley said how complex this application is and that this special permit is most difficult. He said within our regulations the Zoning Commission has the ability to waive, in the MarbleDale Business District, certain requirements. Mrs. Hill prepared a list of waivers requested by special permit for 254 and 258 New Milford Turnpike. Mr. Solley read this into the record.

254 New Milford Turnpike, the apartment building:

A. 9.5.2: Waiver of 3.2, the regulation that states, "... where the Boundary line between two districts divides a lot, the use of the entire lot shall be governed by the more restrictive district conditions."

This wavier is needed:

- 1) In order that Mr. Harris may apply for commercial use per Section 13.13 in the existing apartment building.
- 2) So that the proposed 101 ft. frontage proposed in the application for a lot line revision will comply with the Regulations. R-1 lots require 200 ft. of frontage, whereas commercial lots in the B-3 District require only 100 feet.

B. 9.5.3: Relaxation of Setback Requirements

This waiver is needed:

- 1) For the application for a lot line revision so that Building B will comply with the side yard setback requirement. Currently 25 feet is required for a residentially used building, but 15 feet is proposed. 12.5 feet could be allowed if the waiver is granted.

Mr. Studer submitted a request to amend his application to include a waiver of 9.5.3 on 8/24/15.

258 New Milford Turnpike, the restaurant:

C. 9.5.2: Waiver of 3.2

This waiver is needed:

- 1) Because Eating and Drinking Establishment is a use that is not permitted in the R-1 District. The proposed addition and parking lots may not be constructed if this waiver is not granted.

D.9.5.2: Relaxation of Setback Requirements.

This waiver is needed:

- 1) Because the proposed addition does not meet the 50 ft. front yard setback requirement. The proposed setback is approximately 27.5 feet (this must be confirmed by the applicant as it appears that he measured from the part of the building closest to the property line) A 25 ft. setback is allowed if the waiver is granted.

Mr. Studer said that they will have the surveyor double check the figures.

List of things the commission has the discretion to modify.

254 And 258 New Milford Turnpike:

E. 9.7.A.2: Setback, Buffer, and Frontage Requirements.

- 1) "On any property used for Special Permits or business uses permitted by right, no building or paved area may exist within 50 feet of an adjoining property line of an adjoining residential or residentially used property or farm unless modified by the Zoning Commission. Within this setback the owner of the property where the Special Permit use or business use permitted by right will occur, shall maintain a permanent landscape buffer to screen the Special Permit use or business use permitted by right activity from the neighboring property."
- 2) Neither the building at #254, nor the proposed new paved parking lot at #258 is 50 feet from the adjoining residentially used property line, and in fact, the front parking lot for 258 New Milford Turnpike straddles the line. Also adequate vegetation for the required landscape buffer has not been indicated.

F. 15.3.2 The applicant is requesting that the Commission allow parking over the maximum number required per Section 15.2. I do not think this waiver request is necessary because the Commission has the authority to increase the number of parking spaces required if it determines that the proposed use would not be adequately served by the maximum number of spaces specified per Section 15.2.

15.5 Shared Parking.

- 1) As I wrote in my 8/14/Administrative Review update, there Are requirements per Section 15.5.1 - 15.5.3 that must be met if shared parking is to be granted and there is still a question concerning the use of the residential parking spaces.

Mrs. Hill asked about the shared parking and asked when the applicant would submit the proposed language for the parking agreement that has to be reviewed by the town's legal department. Mr. Studer responded by saying the legal language would be done in accordance with the approval. The applicant was asking the commission to wait until they had approved the application before obtaining legal language for the easements, etc. Mr. Solley said the public hearing would be continued but did anyone have any questions or concerns. Mr. Sorce asked about the shared parking and what the benefits would be. A discussion followed. Mr. Harris again stated that he did not want to give up the two proposed parking spaces closest to the apartment building. The possibility of an easement might resolve this issue. Mrs. Hill read Section 9.7.2 of the Washington Zoning Regulations. There was a discussion of residential housing in the business district. Mrs. Hill recommended the applicant ask for a waiver of Section 9.7.2 or a modification of that section. Mr. Solley asked if there were any questions or comments.

MOTION: To continue the public hearing at 7:00 p.m. on Monday, September 14, 2015 in the Main Level Meeting Room, Bryan Memorial Town Hall to consider Harris/254 & 258 New Milford Turnpike/Special Permit: Section 9.5.2 - request for waivers of Section 3.2 and 9.5.3 - requests to relax Section 11.6.1 re: minimum setback requirements. By Mr. Averill, seconded by Mr. Source, passed 5 - 0 vote

REGULAR MEETING

Mr. Solley called the meeting to order at 9:45 p.m. and seated Members Averill, Reich, Solley, Werkhoven and Sorce.

Consideration of Minutes:

The Commission considered the June 27, 2015 Regular Meeting Minutes of the Zoning Commission and the August 11, 2015 Special Meeting Minutes.

MOTION: To accept the June 27, 2015 Regular Meeting minutes as submitted and the August 11, 2015 Special Meeting minutes as submitted. By Mr. Sorce, seconded by Mr. Averill, and passed 5-0.

Other Business:

A. Preliminary Discussion/Mackesey/233 West Shore Road

Atty. Kelly addressed the commission with a preliminary discussion because it is the only way he can address the board and to ask it to do something in anticipation of a zoning permit application. He said the Mackesey's bought 233 West Shore Road, the former Birches Inn property and they wanted to do some renovations. They applied for a zoning permit and at that point were told they needed variances before that application could be granted and that was because they have two nonconformities, lot coverage and wetland setbacks. They went to ZBA with a request for a variance and were denied. Atty. Kelly along with Atty. Bloom presented a new application to ZBA. This time the application was for a substantial reduction to the lot coverage non conformity and a nominal reduction to the wetlands setback. Atty. Bloom informed the ZBA that the applicant did not have to prove hardship since the nonconformities were being reduced. Atty. Kelly said the application reduced nonconformities and that is the goal of all zoning. Again the variance was denied. Both ZBA denials were appealed by the Mackeseys. Atty. Kelly is planning to submit an application for administrative approval. He said the property is unique because it has gone from a commercial property to a residential property. There have been several administratively approved permits where lot coverage was moved around. When Atty. Kelly submits the application he will also submit Atty. Blooms letter that was submitted to the ZBA. Atty. Kelly said if the town wishes to resolve the litigation and correct a misunderstanding by the ZBA and they are reserving the right to ask the Zoning Commission if they need a variance at all.

Enforcement:

Enforcement Report was sent out via email so there was no discussion.

Adjournment:

MOTION: To adjourn the meeting. By Mr. Averill, seconded by Mr. Sorce passed 5 - 0 vote.

SUBMITTED SUBJECT TO APPROVAL:

Linda Nelson, Land Use Clerk, 08/31/15

A recording of the meeting is available in the Land Use Office