

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Commission Regular Meeting

MINUTES

January 27, 2020

7:30 P.M. – Upper Level Meeting Room

MEMBERS PRESENT: Mr. Werkhoven, Mr. Reich, Ms. Hill, Ms. Radosevich

ALTERNATES PRESENT: Ms. Smith, Mr. Sivick

STAFF PRESENT: Ms. White, Ms. Rill

PUBLIC PRESENT: Ms. Solomon, Mr. Wright, Ms. Wright, Mr. Charles, Mr. Doherty, Mr. Ferrell, Mr. Fredlund, Ms. Fredlund, Ms. Revere, Mr. Francis

In Chairman Solley's absence, Vice Chairwoman, Ms. Hill, will be seated as Chair for this evenings meeting.

Ms. Hill called the meeting to order at 7:30pm. She then seated herself, Mr. Werkhoven, Mr. Reich, Ms. Radosevich and Alternate Ms. Smith.

Ms. Hill made note that Ms. Smith was present for prior deliberation on Zoning Regulation Section 12.8 – Temporary Uses, and attended the Public Hearing on the matter prior to being elected to the Zoning Commission this past November.

CONSIDERATION OF THE MINUTES (34 sec.):

Ms. Hill wished to make the following corrections:

Regarding the Application for Steep Rock at Macricostas, on pages 1, 2 and 4, Ms. Hill noted the importance of mentioning that Steep Rock would be using both properties at 116 and 124 Christian Street as a nature center and museum.

Regarding the Mayflower Application, on page 4, Ms. Hill requested that the minutes reflect the discussion that was had concerning noise and that the applicant had addressed those concerns to the satisfaction of the Commission.

MOTION: To accept the Washington Zoning Commission December 16, 2019 Meeting Minutes, with corrections, by Mr. Reich, seconded by Ms. Radosevich, passed 5-0 vote.

PENDING APPLICATIONS (2min 50sec):

There were no Pending Applications this evening.

NEW APPLICATIONS (2min. 53sec):

- **Request of PH Partners, LLC, 49 Potash Hill Road – for a Special Permit – Section(s): 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – to renovate an existing barn – to be used as a shop and for storage used by contractors.**

Ms. Hill stated that the Commission would only be scheduling the Public Hearing at this time. However, upon reviewing the application prior to this evenings meeting, Ms. Hill questioned whether or not the applicant resides at this property or not. Mr. Francis, representing Arthur H. Howland and Associates, P.C, acting agent for PH Partners, stated that he was unsure if the owner resided there or not, but that Mr. Szymanski, owner of Arthur H. Howland and Associates, P.C would be able to answer all of the Commissions questions at the Public Hearing.

MOTION: To schedule the Public Hearing for the Request of PH Partners, LLC, 49 Potash Hill Road – for a Special Permit – Section(s): 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – to renovate an existing barn – to be used as a shop and for storage used by contractors, for February 24, 2020 at 7:30pm in the Main Level Meeting Room of Bryan Memorial Town Hall, Washington Depot, Connecticut, by Ms. Radosevich, seconded by Mr. Werkhoven, passed 5-0 vote.

OTHER BUSINESS (5min. 20sec.):

- Continuance of Deliberation for the Public Hearing of Zoning Regulation Section 12.8 – Temporary Uses:

Please note: the following draft with edits made by Attorney Zizka, was presented to the Commissioners at this evenings meeting:

Proposed revisions/additions are shown in **BOLD CAPS**. Proposed deletions are [underlined and in brackets.] The Commissions reaction to each Section will be noted in these minutes with a bullet point.

12.8 Temporary Uses. Temporary permits may be issued [by the Zoning Enforcement Officer for the following uses if in his judgment, the public convenience and welfare can be substantially served and the appropriate use of neighboring property would not be substantially or permanently injured.] **FOR CERTAIN STRUCTURES AND USES IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:**

[12.8.1 A circus, carnival, or similar type entertainment for a period of not more than seven days.]

[12.8.2 A non-conforming temporary building or use shown to be necessary pending construction of a conforming building or use, for not more than one year, but renewal permits for successive periods of six months each may be granted.]

[12.8.3 One visiting trailer used for living purposes to be parked on the rear half of a single family dwelling lot but not within 25 feet of a lot line and for not more than four weeks in any calendar year.]

12.8.1 TEMPORARY CONSTRUCTION STRUCTURES: WHEN A LOT IS BEING PREPARED FOR THE CONSTRUCTION OF A PERMITTED PERMANENT STRUCTURE OR THE ESTABLISHMENT OF A PERMITTED PERMANENT USE, A PERMIT MAY BE ISSUED FOR ONE OR MORE STRUCTURES TO BE USED SOLELY FOR (a) STORAGE OF EQUIPMENT AND MATERIALS REQUIRED FOR SUCH PREPARATION OR CONSTRUCTION, OR (b) A CONSTRUCTION OFFICE.

* The Commission agreed with this proposed language.

THE ZONING ENFORCEMENT OFFICER MAY ISSUE A TEMPORARY PERMIT FOR UP TO TWO SUCH STRUCTURES PROVIDED THE STRUCTURES WOULD MEET ALL SETBACK REQUIREMENTS FOR A PERMANENT STRUCTURE. THE DURATION OF THE FIRST SUCH PERMIT SHALL BE NO GREATER THAN ONE YEAR, OR TWO WEEKS AFTER THE COMPLETION OF PREPARATION OR CONSTRUCTION OF THE PERMANENT USE OR STRUCTURE, WHICHEVER COMES FIRST. PERMITS MAY BE RENEWED FOR PERIODS OF NO MORE THAN SIX MONTHS.

* The Commission agreed with this proposed language.

12.8.2 TEMPORARY TRAILERS FOR LIVING PURPOSES: A PERMIT, NOT TO EXCEED FOUR WEEKS IN ANY CALENDAR YEAR, MAY BE ISSUED BY THE ZONING ENFORCEMENT OFFICER FOR ONE VISTING TRAILER TO BE USED FOR LIVING PURPOSES ON A LOT ZONED FOR RESIDENTIAL USE. ANY SUCH TRAILER MUST BE PARKED ON THE REAR HALF OF THE LOT AND MUST BE LOCATED AT LEAST 25 FEET AWAY FROM EVERY LOT LINE. NO MORE THAN ONE SUCH PERMIT SHALL BE ISSUED IN ANY CALENDAR YEAR.

* The Commission agreed with this proposed language.

12.8.3 TEMPORARY USES REQUIRING NO PERMIT:

A. TEMPORARY USES THAT ARE INCIDENTAL AND CUSTOMARY TO THE PERMITTED PRINCIPAL USE OF A PARCEL

The Commission had a lengthy discussion concerning this Section. Ms. Hill questioned whether or not the word “temporary” should be defined to provide clarity. Mr. Werkhoven stated that he felt that using the term “incidental and customary to the permitted principal use of a parcel” should be left as-is. Ms. Radosevich stated that the bottom line was, if the intent of the Commission was to allow property owners to do what they wanted for as many days as they wanted without a permit, or if they should require a permit. Mr. Werkhoven suggested adding “in a residential district”, and not limiting how many days an event can take place, as long as the event is, “incidental and customary to the permitted principal use of a parcel”.

- The Commission wishes to add **“in a residential district”** to the end of this sentence.

B. ANNUAL EVENTS THAT HAVE BEEN HELD AT THE SAME LOCATION FOR A PERIOD OF FIVE YEARS OR MORE BEFORE [INSERT DATE OF AMENDMENT]

- The Commission agreed with this proposed language.

C. TEMPORARY EVENTS ON PROPERTY OWNED BY THE TOWN OF WASHINGTON, RELIGIOUS INSTITUTIONS OR SCHOOLS

- The Commission agreed with this proposed language.

D. TEMPORARY EVENTS WITHIN THE B1, B2, B3, AND B4 DISTRICTS

- The Commission agreed with this proposed language

E. SINGLE-DAY EVENTS NOT LISTED ABOVE, PROVIDED NO MORE THAN 25 OR MORE MOTOR VEHICLES MAY REASONABLY BE EXPECTED TO ARRIVE AT SUCH EVENT. NO MORE THAN THREE SUCH EVENTS MAY BE HELD ON ANY LOT IN ANY ONE CALENDAR YEAR

- The Commission agreed to delete this section in its entirety.

12.8.4 TEMPORARY USES REQUIRING A ZONING PERMIT:

THE ZONING ENFORCEMENT OFFICER MAY ISSUE A ZONING PERMIT FOR A SINGLE-DAY EVENT NOT LISTED IN SUBSECTION A, ABOVE, PROVIDED THE APPLICANT DEMONSTRATES THAT ADEQUATE PARKING CAN BE PROVIDED. NO MORE THAN TWO (2) SUCH PERMITS SHALL BE ISSUED IN ANY ONE CALENDAR YEAR ON THE SAME SITE.

- The Commission wishes to add that **“the hours for such events are limited from 8am to 10pm”**.

12.8.5 TEMPORARY USE REQUIRING A SPECIAL PERMIT:

A SPECIAL PERMIT SHALL BE REQUIRED FOR ANY TEMPORARY USE NOT DESCRIBED IN SECTIONS 12.8.3 AND 12.8.4. SUCH USE SHALL BE SUBJECT TO THE STANDARDS OF SECTION 13.1.C OF THESE REGULATIONS AND SHALL BE LIMITED TO CIRCUSES, CARNIVALS, FESTIVALS, CONCERTS, ARTISTIC PERFORMANCES, AND GALAS AND SIMILAR TYPE ENTERTAINMENT.

- The Commission would like to add **“events lasting more than one day”** to this Section.

NO MORE THAN ONE (1) SPECIAL PERMIT MAY BE ISSUED IN ANY ONE CALENDAR YEAR FOR A TEMPORARY USE ON ANY LOT OR PARCEL. NO SUCH TEMPORARY USE SHALL BE PERMITTED FOR MORE THAN SEVEN CONSECUTIVE DAYS.

- The Commission would like to add **“All such uses/events that require a Special Permit shall be limited to the hours of 8am to 10pm”**.

Request of Harry Wright Electrical Company, 14 Kinney Hill Road – for an extension of a Special Permit – Section(s): 13.16 – Shop and Storage Use by Contractors and Building Tradesmen. *Current Permit expires: 2/27/2020 (39min. 02sec.):

Ms. Hill thanked the Wright Family for continuously renewing their Special Permit, noting that very few contractors do so. Ms. Hill stated that she received a complaint the previous day regarding vehicles being parked along the road at 14 Kinney Hill Road. Mr. Wright explained that this situation was corrected two weeks ago, that a tree was removed to make room, and that all vehicles were now parked in the rear of the property. This response satisfied the Commission, who agreed to extend Mr. Wright's Special Permit.

MOTION: To approve the request of Harry Wright Electrical Company, 14 Kinney Hill Road – for an extension of a Special Permit – Section(s): 13.16 – Shop and Storage Use by Contractors and Building

MOTION: To approve the Request of Harry Wright Electrical Company, 14 Kinney Hill Road – for an extension of a Special Permit – Section(s): 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – New Special Permit expires 2/27/2022, by Mr. Werkhoven, seconded by Mr. Reich, passed 5-0 vote.

Conservation Commission – Recommendation of Tree Regulations (41min. 03sec.):

Ms. Hill informed the Commission that the Conservation Commission had provided a recommendation that was circulated at last month's meeting. She stated that this was not a formal petition to amend the regulations at this point, but rather a suggestion of what the Conservation Commission would like to see happen.

Ms. Hill stated that she felt that the Conservation Commission's suggestion was at least one part of the "Limited Impact Development Regulations", and would like to start a sub-committee to look further into adapting them into the Zoning Regulations. Mr. Werkhoven and Ms. Smith both volunteered to join Ms. Hill in doing so.

Mr. Reich stated that he believed that the town should be highly concerned with the increased number of dead trees along roadways currently. Mr. Werkhoven stated that the Town does budget every year for tree removal, and that it is an ongoing issue. Ms. Hill explained that Conservation was looking more into live trees, however agreed that there is an abundance of dead trees in the area. Mr. Werkhoven suggested that if the Zoning Commission was going to recommend adding this to the budget for this fiscal year, to do so relatively soon.

Discussion of the Zoning Commission's Vacant Alternate Seat (46min 45sec):

Mr. Werkhoven stated that he had requested that this item be put on this evenings Agenda, voicing concern over the rescinding of Ms. Rebecca Rebillard's appointment as an Alternate on the Zoning Commission made by himself, (as a member of the Board of Selectmen), and then First Selectman Mark Lyon after the November 2019 election. Mr. Werkhoven asked the Commission to explain if there was a reason as to why Ms. Rebillard should not be re-appointed to the Alternate seat.

Ms. Hill stated that the Zoning Commission is an elected position, therefore the voters had elected a Democrat for this position. Ms. Radosevich, a Democrat, had originally been voted in to this Alternate seat, but had been promoted to Regular member due to the untimely passing of Mr. Armstrong, also a Democrat.

Mr. Werkhoven stated that it was to his understanding that Alternate seats were not designated. He questioned what would happen if an Unaffiliated voter wanted to fill the vacancy, if they would be turned away.

Ms. Radosevich explained that when a former Zoning Commission member vacated their seat, that Ms. Rebillard filled the vacancy. During the November 2019 election, Ms. Rebillard ran against Ms. Hill on the ballot for a Regular seat and lost. Ms. Smith was elected into the Alternate position that Ms. Rebillard had held, therefore, the vacant seat was open to a Democrat.

Ms. Smith stated that she felt as though Ms. Rebillard had more experience than her on the Commission because she had been a member during a number of Public Hearings, including the Public Hearing for Section 12.8.

Mr. Reich pointed out that in his years of being a member of the Zoning Commission, that he could not recall it ever being an issue of political party, but rather an issue of good people, good citizens of Washington, whom wanted to volunteer. Mr. Reich stated that he believed Ms. Rebillard is a good person and was a great addition to the Commission. He added that he was discouraged to see that politics was interfering with good citizenship, in this case.

Ms. Hill made mention that The Zoning Commission was an elected position, not an appointed one, so to that degree it was in fact, political. She stated that she felt that this was more of a topic for a Selectman's Meeting than a Zoning Meeting.

Mr. Werkhoven stated that he felt the Commission was definitely missing out on a good member in Ms. Rebillard.

Mr. Reich brought to the attention of the Commissioner's that Gary Fitzherbert, longtime Zoning Commission Member and Chairman, had passed away the previous week. Mr. Reich stated that he and Mr. Fitzherbert had never spoken of party affiliation while seeking members in the past.

Mr. Sivick mentioned a letter read at a recent Selectman's meeting, referring to his Alternate seat in particular. Mr. Sivick admitted that he had not been attending Zoning Meetings for quite some time, however, he had grown increasingly frustrated with never being seated and not allowed to voice his opinion. Mr. Sivick stated that he would be attending future Zoning meetings.

Privilege of the Floor (1hr. 04min. 35sec.):

Ms. Fredlund of Bee Brook Road asked for clarification pertaining to proposed language of Section 12.8.3.A – "Temporary Uses That Are Incidental and Customary to the Permitted Principal Use of a Parcel", and who would determine what is considered "Incidental and Customary". Ms. Fredlund explained that she is concerned that there is no limit in the number of days allowed for such events, and feels as though an attorney could find loopholes in this language and take advantage.

Ms. Hill stated that Section 12.8.4 – Uses Requiring a Permit, stated that, **"THE ZONING ENFORCEMENT OFFICER MAY ISSUE A ZONING PERMIT FOR A SINGLE-DAY EVENT NOT LISTED IN SUBSECTION A, ABOVE, PROVIDED THE APPLICANT DEMONSTRATES THAT ADEQUATE PARKING CAN BE PROVIDED. NO MORE THAN TWO (2) SUCH PERMITS SHALL BE ISSUED IN ANY ONE CALENDAR YEAR ON THE SAME SITE"**.

The Commission explained that an "Incidental and Customary Use", would not be considered a festival of any kind.

Ms. Fredlund then asked for clarification of a Zoning Permit versus a Special Permit and what the difference in each was. Ms. Hill explained that a Zoning Permit is a use permitted that the Enforcement Officer can sign off on, that what is proposed is clearly allowable in the Regulations. A Special Permit has a number of standards and requirements that have to be met, it has to be heard by the Zoning Commission, and there needs to be a Public Hearing in order to get approval.

Ms. Branson of Flirtation Avenue asked for clarification regarding the Conservation Commission's Recommendation of Tree Regulations, and if they would now fall under the limited impact development regulations, or if there was any action that was going to be taken regarding the recommendations. Ms. Hill stated that there was no guarantee that the changes that were proposed would be made, but they definitely would be considered.

Ms. Fredlund stated that she had a few questions regarding the property on Bee Brook Road regarding work being done, equipment on the property, and which Commissions or Boards were responsible for granting them the permits to do the work. Ms. White and Ms. Rill explained that there was currently a permit that was granted under an administrative sign-off for a wine/vineyard barn.

A lengthy discussion took place regarding barns and their agricultural purpose. The Commission is concerned over rumored possibility of this property holding wedding events in the future. Ms. Hill suggested that the Zoning Enforcement officer contact the property owners and remind them that these events are not permitted.

MOTION: To adjourn the January 27, 2020 Zoning Commission Meeting at 8:46pm, by Mr. Werkhoven, seconded by Mr. Reich, passed by 5-0 vote.

Respectfully Submitted,

Tammy Rill

Land Use Clerk

January 31, 2019

***All documents on file in the Land Use Office**

****Minutes subject to approval**

*****A recording of this meeting is available upon request**

