

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

MINUTES

September 27, 2021

7:30 P.M. – Hybrid Meeting

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

ALTERNATES PRESENT: Ms. Smith, Ms. Anderson

ALTERNATES ABSENT: Mr. Sivick

STAFF PRESENT: Ms. White, Ms. Rill, Ms. Haverstock, Attorney Zizka

PUBLIC PRESENT: Mr. Farrell, Attorney Kelly, Mr. Gugel, Ms. Gorra, Ms. Branson, Mr. Halsey, Mr. Parker, Ms. Lodsine, Ms. Purnell, Ms. Solomon, Attorney Sherwood, Mr. Hileman, Attorney Fisher, Mr. Barnet, Mr. Rogness, Ms. Giampietro, Ms. Tagley, Mr. Szymanski, Mr. Charles, Other Members of the Public

The meeting was called to Order at 7:34pm.

Chairman Solley, Ms. Hill, Mr. Reich, Mr. Werkhoven and Ms. Radosevich were seated for the Regular Meeting.

Request of Durrett, 7-11 Worcester Road, for a Special Permit from Section 17.9 Replacement of a Non-Conforming Structure – to demolish an existing barn and shed, and rebuild within footprint:

Attorney Kelly, representing the property owner, stated that the timber-framed barn is beginning to collapse, and his clients would like to rebuild it as well as a shed within the exact same footprint - for storage use. Attorney Kelly provided an aerial picture of the barn from the Connecticut State Library that demonstrated that the barn existed in 1934, prior to the adaptation of Zoning Regulations in Washington that were put into place in 1939. A letter from engineer, Brian Neff, was also provided stating that the barn was not structurally sound. The proposed barn will also be timber framed.

Mr. Halsey, the architect for the project, stated that there will not be an increase to size or volume. Ms. Hill questioned what the current height of the peak will be in comparison to the proposed peak. Mr. Halsey stated that the current peak is 22 feet 4 inches and will remain the same for the new proposed barn. Chairman Solley questioned if it would be at the same grade, and Mr. Halsey confirmed that it will be the same grade and height. The interior will consist of drywall or shiplap wood paneling and will be heated with two-stories. The barn will be used for storage and recreation only, and there will not be any plumbing. Attorney Kelly stated that his clients understood that the application is to save the barn, and

if there were changes to be made in the future, there would need to be a new application submitted for a Special Permit. The shed will also be rebuilt as-is and will have heat and electricity.

MOTION: To close the Public Hearing Hearing for the Request of Durrett, 7-11 Worcester Road, for a Special Permit from Section 17.9 Replacement of a Non-Conforming Structure – to demolish an existing barn and shed, and rebuild within footprint, by Mr. Werkhoven, seconded by Ms. Radosevich, passed 5-0 vote.

Revisions of the Zoning Regulations - Sections: 3.2, 7.5, 7.6, 7.8.1, 7.9, 8.5, 8.6, 8.8, 8.8.1, 8.9, 8.9.1-9, 9.5, 9.5.1-4, 9.6, 9.6.1-4, 9.8, 9.8.1-3, 9.9, 10.5, 10.5.1-4, 10.6, 10.6.1-4, 10.8, 10.8.1, 10.9, 10.9.1-9 – Business Districts:

Ms. Hill stated that the Planning Commission approached the Zoning Commission and requested that the Business District regulations be more consistent and streamline each Business District in Washington Depot, Marbledale, Woodville and New Preston.

Chairman Solley read a letter submitted by Ms. Gorra, Economic Development and Community Coordinator for the Town of Washington. In her letter, Ms. Gorra listed her concerns, with her main concern being that some of the changes proposed would be more restrictive for the Business Districts.

Chairman Solley also read the referral response from Mr. Hileman, Chairman of the Washington Planning Commission. Listing specific Sections, Mr. Hileman pointed out areas that would be more restrictive for some Districts and would not be consistent with the Plan of Conservation and Development. Other changes he found to be editing mistakes that could be easily taken care of.

Attorney Zizka, Land Use Attorney for the Town of Washington, explained that many regulations put forth by town's may not be considered lawful as they once were, citing the case of Mackenzie vs. The Planning and Zoning Commission, where the commission had a regulation that listed the standards but offered a waiver to the regulation if desired. The Appellate court stated this was unlawful. In several other cases, the courts decided that if standards were listed in the regulations and that criteria were met, then an applicant could get some relief, and this was more acceptable to the court. Washington's current regulations could fall into the unlawful category.

Mr. Hileman clarified that the Planning Commission in March of 2020 requested that the Zoning Commission add two lines of text to make the Business District regulations more consistent, not a complete overhaul of language for each district.

Ms. Gorra added that concerning setbacks and lot coverage, she felt that Washington had very few undeveloped lots currently, and did not see the need for speculating what few lots Washington did have would do in the future. She added that she did not feel that making it more difficult for those areas to develop was needed. She added that she understood Attorney Zizka's reasoning behind increasing the setbacks and coverage but did not feel that restricting those areas was necessary.

Chairman Solley asked the Commissioners if they felt they should continue tweaking the edits, or if they felt confident to close the Public Hearing.

Attorney Zizka stated there had been a few editing mistakes to clarify and submitted the following Modifications for the Commission to review (see attached document).

Chairman Solley asked Attorney Zizka if these modifications would still be allowed if the Public Hearing is closed. Attorney Zizka confirmed that they would be because they were corrections in numbering and typing errors.

Ms. Hill added that on Page 3, Section 9.9.1, the sentence reads, "The Commission may not approve any reduction in the Setbacks required by 9.7", should be deleted because this is the Maximum Lot Coverage paragraph. Also, on page 6, Section 10.5, the last sentence should also be deleted for the same reason.

Also, Page 6, Section 10.5.2, "the proposed project is in harmonious in....", the first "in" should be deleted.

MOTION: To close the Public Hearing regarding Revisions of the Zoning Regulations - Sections: 3.2, 7.5, 7.6, 7.8.1, 7.9, 8.5, 8.6, 8.8, 8.8.1, 8.9, 8.9.1-9, 9.5, 9.5.1-4, 9.6, 9.6.1-4, 9.8, 9.8.1-3, 9.9, 10.5, 10.5.1-4, 10.6, 10.6.1-4, 10.8, 10.8.1, 10.9, 10.9.1-9 – Business Districts, by Ms. Radosevich, seconded by Ms. Hill, passed 5-0 vote.

Chairman Solley called the Regular Meeting to order at 8:42pm.

Chairman Solley, Ms. Hill, Ms. Radosevich, Mr. Werkhoven and Mr. Reich are seated for the Regular Meeting.

CONSIDERATION OF THE MINUTES:

MOTION: To approve the August 23, 2021 Washington Zoning Commission Meeting Minutes as submitted, by Mr. Reich, seconded by Mr. Werkhoven, passed 5-0 vote.

PENDING APPLICATIONS:

MOTION: To approve the Request of Durrett, 7-11 Worcester Road, for a Special Permit from Section 17.9 Replacement of a Non-Conforming Structure – to demolish an existing barn and shed, and rebuild within footprint with the following condition: 1.) That the Applicant will apply for additional permitting required if changing the use of the barn and/or shed. Motion made by Chairman Solley, seconded by Mr. Werkhoven, passed 5-0 vote.

Chairman Solley stated that he would like to hold a Special Meeting to go over the 101 Wykeham, LLC Land Tech Report. Attorney Zizka stated that he received dated September 26, 2021 from Ms. Purnell as well as Mr. Barnet that raises several valid concerns, and he suggested that the letter be submitted to Land Tech so that they can prepare a response to those concerns. Chairman Solley suggested allowing enough time for Land Tech to respond, therefore an October 14, 2021 meeting at 7:00pm would be appropriate. The Agenda for that evening will also include the revisions to the Business Districts.

Chairman Solley asked Ms. White to update the Commission regarding The Mayflower while Attorney Zizka was present. Ms. White stated that the Zoning Board of Appeals held a Special Meeting on September 23, 2021 and voted to uphold the Cease and Desist Order by unanimous vote. There were four more events scheduled for the season, which ended November 1, 2021. Attorney Zizka clarified that once the Zoning Board of Appeals decision was published, the decision was final and could be appealed in Superior Court. Ms. Radosevich questioned if the Town of Washington was going to enforce the Cease-and-Desist Order moving forward. Ms. White explained that the only way to do so would be to file an injunction in Court, and by the time this happens, their events would be over. Attorney Zizka added that it would be unlikely that the court could act fast enough for the injunction to happen prior to

this event season ending, however if the town wanted to file an injunction prior to next year's event season in May of 2022, they could do so.

Revisions of the Zoning Regulations - Sections: 3.2, 7.5, 7.6, 7.8.1, 7.9, 8.5, 8.6, 8.8, 8.8.1, 8.9, 8.9.1-9, 9.5, 9.5.1-4, 9.6, 9.6.1-4, 9.8, 9.8.1-3, 9.9, 10.5, 10.5.1-4, 10.6, 10.6.1-4, 10.8, 10.8.1, 10.9, 10.9.1-9 – Business Districts:

The Commission decided that they would like to review the language once the final edits were made.

MOTION: To Defer the Public Hearing regarding Revisions of the Zoning Regulations - Sections: 3.2, 7.5, 7.6, 7.8.1, 7.9, 8.5, 8.6, 8.8, 8.8.1, 8.9, 8.9.1-9, 9.5, 9.5.1-4, 9.6, 9.6.1-4, 9.8, 9.8.1-3, 9.9, 10.5, 10.5.1-4, 10.6, 10.6.1-4, 10.8, 10.8.1, 10.9, 10.9.1-9 – Business Districts, and schedule a Special Meeting for October 14, 2021 at 7:00pm, Bryan Memorial Town Hall and Zoom to review the final language. Motion made by Chairman Solley, seconded by Ms. Radosevich, passed 5-0 vote.

NEW APPLICATIONS:

Request of Wright, 202 Baldwin Hill Road, for a Special Permit, Section 13.11.3 - Detached Accessory Apartment:

MOTION: To schedule the Public Hearing for the Request of Wright, 202 Baldwin Hill Road, for a Special Permit, Section 13.11.3 - Detached Accessory Apartment, for the October 25, 2021 Washington Zoning Commission Regular Meeting, at 7:30pm, Bryan Memorial Town Hall and well as Zoom Virtual Meeting. Motion made by Chairman Solley, seconded by Ms. Hill passed 5-0 vote.

101 Wykeham, LLC – Land Tech Compliance Report:

MOTION: To postpone the discussion regarding 101 Wykeham, LLC's Land Tech Compliance Report until the October 14, 2021 Washington Zoning Commission Special Meeting, 7:00pm, Bryan Memorial Town Hall as well as Zoom Virtual Conference. Motion made by Chairman Solley, seconded by Ms. Hill, passed 5-0 vote.

ENFORCEMENT:

Ms. Haverstock reported that within the last month there were 24 permits issued, 10 Certificates of Zoning Compliance issued and 4 sites of concern that have been inspected, and letters have been issued to those properties.

Ms. Radosevich questioned if anything has been done regarding the storage containers located at Everything Botanical on Old Litchfield Road. Ms. White stated that the Land Use Department was still catching up as far as previous complaints were concerned.

Chairman Solley questioned if the issue of the garage at 35 Old Litchfield Road property had been addressed. Ms. White stated that the contractor has been notified, and she and Ms. Haverstock will need to do an inspection for a Zoning Compliance report and would address the issues at that time. The property owner will not be able to obtain a Certificate of Occupancy from the Building Department without the Zoning Compliance certificate.

Ms. Radosevich requested an update on 57 Flirtation Avenue. Ms. White stated that she did not have the file for reference at this meeting. Ms. Radosevich questioned if whether the property owner was up to date on all permitting necessary, more specifically for walls and/or fences installed. Ms. White stated

that she and Ms. Haverstock have been catching up with enforcement over the last month and assured Ms. Radosevich that 57 Flirtation Avenue was on the list of properties for review.

PRIVILEGE OF THE FLOOR:

Ms. Purnell questioned what could be done on her behalf regarding the Land Tech Report for 101 Wykeham, LLC. Chairman Solley stated that she is welcome to attend the Public Hearing on October 14, 2021.

ADMINISTRATIVE BUSINESS:

Chairman Solley stated that a Motion will need to be made to officially welcome Ms. Haverstock as the new Zoning Enforcement Officer, but he needed to have a discussion with First Selectman Brinton first and hoped the Commission could make that Motion at the October Regular meeting.

MOTION: To adjourn the September 27, 2021 Washington Zoning Commission meeting at 9:17pm, by Ms. Radosevich, seconded by Ms. Hill, passed 5-0 vote.

Respectfully Submitted,

Tammy Rill

Land Use Clerk

September 28, 2021

The recording for this meeting can be found here:

https://1drv.ms/u/s!AhqOocBm3HM3iRL9WpGojW-9KZ_P?e=9vzaZH