

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

MINUTES

February 28, 2022

7:30 P.M. – Zoom Meeting

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

MEMBERS ABSENT: None

ALTERNATES PRESENT: Ms. Smith, Mr. Mongar

ALTERNATES ABSENT: Ms. Andersen

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

PUBLIC PRESENT: J. Audet, Attorney Kelly, D. Dupuis, L. Frank, L. Stagen, B. Papsin, S. Branson, J. Brinton, E. LaBella, R. Solomon, M. Solomon, J. Usaty, L. Gendron, M. Purnell, R. Larson, K. Feldman, M. Dubow, V. Casey, A. Kuzman, H. Barnet, S. Puzinski, M. Gorra, R. Conroy, D. Virbickas, B. Bennett, J. Labshere, L. Anderson, J. Athas, L. Hartley, E. Hearn, R. Owens, R. Duke, B. Bouyea, Other Members of the Public

PUBLIC HEARING(S):

Request of LaBella, 130 Kinney Hill Rd., for a Special Permit – Section 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – for a shop and storage unit:

Seated for the Public Hearing will be Chairman Solley, Ms. Hill, Mr. Werkhoven, Ms. Radosevich and Mr. Farrell.

Ms. White read the Land Use Special Permit Completeness Report to the Commission, which can be found here:

https://townofwashingtoncc-my.sharepoint.com/:w:/g/personal/trill_washingtonct_org/EW1bxMbTw75Er30fpcD4y58Bl6Hxw37_AWVcSJKWvjVlrA?e=ciCpOl

Ms. Hill explained that in accordance with Section 12.5.2 – an accessory building shall not exceed 75% of the ground floor area and volume of the principle dwelling.

Mr. Werkhoven questioned this, as the application was for 13.16 – Shop and Storage Use, where this limitation is not mentioned.

The Commission discussed the inconsistency within the two Section's at length and suggested a possible regulation revision in the future. Chairman Solley asked Mr. LaBella to present his application.

Mr. LaBella stated that he was proposing to build a 40' x 60' structure to be used for equipment and storage for his business. He explained that his goal was to construct the proposed shop so that the area would be aesthetically pleasing for his neighborhood. He added that he has obtained a driveway permit from the Town of Washington's Highway Department director.

Mr. LaBella clarified that most of his business was operated off of the premises, however he needed an area to work on and store equipment and supplies.

Mr. Brinton voiced concern over the two competing regulations adding that the town's goal is to attract young families, businesses and volunteers to the community.

Ms. Frank of West Shore Road questioned what would happen if the property owner were to eventually sell – could the use change? Chairman Solley explained that a 1,200 square foot accessory structure would be allowed.

Chairman Solley stated that he would like Attorney Zizka to weigh in on the matter.

Attorney Zizka joined the meeting at this time and the Commission asked him for clarification of the matter.

Attorney Zizka explained that in Section 12.5 – which is a general regulation that applies to accessory structures, states that the ground floor area shall not exceed 33%. This applies to all accessory structures. In Section 13.16.5 it is stated that no shop in the R-1 district shall occupy a total floor area in a residence greater than 33% or the total square footage of an accessory structure. This would apply only to this type of structure and does not supersede the general limitation in 12.5. He added that this was a scenario where the stricter regulation applies. Chairman Solley questioned if there was a typo in Section 13.16.5 – “No such shop in the R-1, Farming-Residential District shall occupy a total floor area in a residence greater than 33% or the total square footage of an accessory structure”, asking if the “or” should be “of”. Attorney Zizka stated it was more than likely a typo and should be, “of”.

The Commission discussed examples of other accessory structures, their size and use throughout Washington. The Commission agreed that they should revise the regulation. The Commission discussed whether they should close the Public Hearing or continue it. They agreed to close the Public Hearing.

MOTION: To close the Public Hearing for the Request of LaBella, 130 Kinney Hill Rd., for a Special Permit – Section 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – for a shop and storage unit, by Chairman Solley, seconded by Ms. Hill, passed unanimously.

Proposed Revisions to the Washington Zoning Regulations – Section(s): 14.3; 14.7.13, 21.1.65 - Preservation of Trees, Natural Features:

Seated for this Public Hearing is Chairman Solley, Ms. Hill, Mr. Werkhoven, Ms. Radosevich and Mr. Farrell.

Chairman Solley gave the floor to Susan Branson, whom helped formed the language for the proposed revision, stated that the modest changes to the revisions would protect and preserve trees and their trees and their canopies as well as Washington's designated notable trees and ridgeline protection. She added that the Conservation Commission looked to other neighboring towns as well as the DEEP for guidance and ideas for the proposed language.

Chairman Solley read the Referral from Washington Planning Commission Chairman, Wayne Hileman. Ms. White overviewed the responses from the Northwest Hills Council of Governments, the Naugatuck Valley Council of Governments as well as the Western Connecticut Council of Governments and all stated that there was no negative effect from the proposed revisions in their opinion.

Chairman Solley asked Ms. Haverstock, Washington's Zoning Enforcement Officer, for her opinion on enforcing the proposed regulations. She explained that the regulations call upon the property owner, along with their designees, to present site plans with this information included, and the Land Use Office will continue to use and look at these plans along with working with the property owners and contractors.

Ms. Hill clarified that the proposed revisions were for Existing Topography, Natural Features and Natural Vegetation, and that cutting down a tree on your personal property would not require a Zoning Permit unless the tree was in or near the wetlands.

Attorney Zizka had relayed to the Ms. Hill prior to the meeting that he would like the opportunity to review the Connecticut State Statutes prior to the Commission voting tonight.

Chairman Solley opened the meeting to the public for comment.

Ms. Frank of West Shore Road stated that she felt the revisions were a win/win for Washington, would limit run-off and were a positive step in the right direction.

MOTION: To Continue the Public Hearing for the Proposed Revisions to the Washington Zoning Regulations – Section(s): 14.3; 14.7.13, 21.1.65 - Preservation of Trees, Natural Features for the March 28, 2022 Washington Zoning Commission Regular Meeting in the Main Meeting Room of Bryan Memorial Town Hall as well as via Zoom Video Conference at 7:30pm, by Mr. Werkhoven, seconded by Mr. Farrell, passed unanimously.

REGULAR MEETING:

Chairman Solley Called the Regular Meeting to Order at 9:24pm.

Seated for this meeting is Chairman Solley, Ms. Hill, Ms. Radosevich, Mr. Werkhoven and Mr. Farrell.

Consideration of the Minutes:

Ms. Radosevich stated that on Page 5, paragraph two of the January 24, 2022 meeting:

"She added that she and several neighbors called The Mayflower repeatedly over the Summer and they refused to music down at that time...." – add the word, "turn" between "to" and "music".

For February 7, 2022 meeting – add Ms. Andersen as “Absent” for the meeting.

On page 3, third sentence from the bottom – edit spelling of “Werkhoven”

MOTION: To approve the January 24, 2022 Regular Meeting Minutes and the February 7, 2022 Special Meeting Minutes with corrections to both, by Chairman Solley, seconded by Ms. Radosevich, passed 5-0 vote.

Pending Applications:

Request of LaBella, 130 Kinney Hill Rd., for a Special Permit – Section 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – for a shop and storage unit:

The Commission agreed that Section 13.16 and Section 12.5 needed to be revised as soon as possible, with Chairman Solley, Ms. Hill, Mr. Farrell and Ms. Radosevich all agreeing that Mr. LaBella’s application be denied until then. Ms. Hill stated that when Mr. LaBella re-submits the application at a later date that the Land Use Department shall waive the Application fee. The Commission agreed with this.

MOTION: To deny the Request of LaBella, 130 Kinney Hill Rd., for a Special Permit – Section 13.16 – Shop and Storage Use by Contractors and Building Tradesmen – for a shop and storage unit, based on the irregularities in Section 12.5.2, by Chairman Solley, seconded by Ms. Radosevich, denied 4-1 vote.

Request of MFSPA2013, LLC, 116 Woodbury Rd., for a Special Permit – Section(s): 4.1.1 – Inn or Tourist Home, 13.1.C – Standards, and 14 – Applicability – for an event tents for wedding, corporate meetings and similar events:

Chairman Solley recused himself for the deliberation of MFSPA2013, LLC’s application.

Mr. Mongar will be seated.

Attorney Zizka rejoined the meeting.

Ms. Hill stated that only the members seated could deliberate. She asked the members to state the reasons why they are for or against the application, and clarified that the 2019 Special Permit approved by the Zoning Commission had been approved at that time and had not been formally withdrawn. She asked Attorney Zizka to clarify if this impacts the decision for tonight.

Attorney Zizka stated that tonight’s deliberation is based on a new application and was not submitted as a modification of the 2019 Special Permit. He explained that due to this, if the Commission voted to approve tonight’s application, that this approval would supersede the previously approved Special Permit. If the Application is denied, the 2019 Special Permit approval would remain in effect, however it would not allow Noise Generating Equipment or amplified sound. Also, the Cease and Desist Order will still be in effect

Mr. Werkhoven explained that he felt, based on the reports submitted by both The Mayflower as well and the neighbor’s experts, that it was impossible to keep the sound controlled to a level that would not disrupt the neighborhood Without being in an enclosed structure.

Ms. Radosevich stated that she did not the neighbors should have to tolerate another summer of disruption, and agreed with Mr. Werkhoven’s comments.

Mr. Farrell stated that he could not support the application, agreeing with both Mr. Werkhoven and Ms. Radosevich.

Mr. Mongar explained that he felt the noise could not be mitigated and was disruptive to the neighborhood, and could drive down home values.

Ms. Hill stated that The Mayflower has been a huge part of the Washington community for many years and had never received a complaint until now. She explained that she could not support an approval without conditions, yet felt that the condition would be no amplified sound. She did not feel that mitigation would work effectively, adding that topography was a huge factor. She added that not only music but voices were among the many complaints against The Mayflower.

Attorney Zizka stated that he could put together a Motion based on what the Commission had said.

The Commission agreed to move on to New Applications until Attorney Zizka completed the draft motion.

New Applications:

SMF Universal, LLC – 124 New Milford Turnpike – for a Special Permit – Section(s): 7.3.6 – Retail Business, 7.3.8 – Business or Professional Office and 7.4.9 – Housing in Business Districts – for a retail coffee shop and apartments:

Mr. Virbickas, representing the property owner, stated that there would be a change in the application and a coffee shop would not be a use, but a retail shop would be, as well as an office space and apartments. He added that they would be asking for several waivers - for the handicap ramp to be allowed in the setback, that the parking is allowed in front of the building and not on the side or rear of the building. The submission has not received Health approval as of yet.

Ms. Hill asked for clarification on the Sections Mr. Virbickis would be utilizing for the application. Mr. Virbickis stated he would be in contact with the Land Use Office to clarify for the Public Notice, as the waivers Mr. Virbickis listed were not on the application.

MOTION: To schedule a Public Hearing for the Request of SMF Universal, LLC – 124 New Milford Turnpike – for a Special Permit – Section(s): 7.3.6 – Retail Business, 7.3.8 – Business or Professional Office and 7.4.9 – Housing in Business Districts – for a retail coffee shop and apartments, for March 28, 2022 at 7:30pm, Bryan Memorial Town Hall, Main Meeting Room as well as via Zoom Video Conference. By Chairman Solley, seconded by Mr. Werkhoven, passed 5-0 vote.

Request of The Frederick Gunn School, Inc – 99 Green Hill Road, for a Special Permit – Section 4.4.10 – Uses Permitted by Special Permit – for the demolition of an existing building and construction of new building:

MOTION: To schedule a Public Hearing for the Request of The Frederick Gunn School, Inc – 99 Green Hill Road, for a Special Permit – Section 4.4.10 – Uses Permitted by Special Permit – for the demolition of an existing building and construction of new building, , for March 28, 2022 at 7:30pm, Bryan Memorial Town Hall, Main Meeting Room as well as via Zoom Video Conference. By Chairman Solley, seconded by Mr. Werkhoven, passed 5-0 vote.

Pending Applications:

Request of MFSPA2013, LLC, 116 Woodbury Rd., for a Special Permit – Section(s): 4.1.1 – Inn or Tourist Home, 13.1.C – Standards, and 14 – Applicability – for an event tents for wedding, corporate meetings and similar events:

Attorney Zizka prepared the following Motion and the Commission agreed to use his language.

MOTION: I move that the application of MFSPA2013, LLC for a special permit for 116 Woodbury Road, stating a proposed use of “Event Tent for weddings, corporate meetings and similar events,” be denied for the following reasons:

Section 13.1.C of the Zoning Regulations requires the Commission to find that the proposed use would comply with a variety of criteria that include the following:

1. That the proposed use and any building or other structure in connection therewith are consistent with the objectives of the Plan of Conservation and Development for the Town of Washington, and the intent and requirements of the Zoning Regulations as such documents may be amended.
2. That the location, type, character, size, scale, proportion, appearance, and intensity of the proposed use and any building or other structure in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property or substantially or permanently impair the value thereof.
5. That the lot on which the use is to be established is of sufficient size and adequate shape, dimension, and topography to permit conduct of the proposed use and any building or other structure in connection therewith in such a manner that will not be detrimental to the neighborhood or adjacent property.
8. That the proposed use and any building or other structure in connection therewith will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line.

The evidence presented to the Commission did not demonstrate that the application would comply with these criteria and, to the contrary, indicated that the application would fail to protect the surrounding residential area from objectionable sound and vibration, which would seriously detract from the enjoyment of the residential areas in the vicinity of the site. Motion made by Ms. Hill, seconded by Mr. Werkhoven, passed unanimously.

Enforcement:

Ms. Haverstock stated that the Land Use Office had approved several generators, propane tanks, patios a solar array as well as a new home.

She stated that regarding The Mayflower’s Hospitality Tent and questions about it being a permanent or seasonal structure. It was determined that the concrete and wooden frame affixed to it met the definition of permanent structure, although the approved use is only seasonable.

Ms. Haverstock stated that there have been several complaints regarding short-term rentals and were advised by Attorney Zizka to ask the Commission to have a conversation regarding the issue.

Chairman Solley suggested that the Land Use Office look into neighboring towns and how they have been handling the issue and what regulations, if any, they may have.

Communications:

None

Privilege of the Floor:

Mr. Werkhoven requested that the short-term rental issue be added to the April agenda.

Administrative Business:

Ms. Hill requested that the Commission review its compliance with Connecticut State Statute PA-21-29 at the March 28, 2022 Zoning meeting.

Adjournment:

MOTION: To adjourn the Washington Zoning Commission February 28, 2022 Regular Meeting at 10:34pm, by Mr. Farrell seconded by Chairman Solley, passed 5-0 vote.

A recording of tonight's meeting can be found here:

https://townofwashingtongcc-my.sharepoint.com/:u:/g/personal/trill_washingtonct_org/EUQ0d9b582pOuLW8vKAAGjwBw1pBJLTmDZ-1Yu7Ixx7Uqg?e=n8hTEr

Respectfully Submitted,

Tammy Rill

Tammy Rill
Land Use Clerk
March 4, 2022