

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Commission Regular Meeting
MINUTES
February 24, 2020

7:30 P.M. – Upper Level Meeting Room

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

MEMBERS ABSENT: Mr. Solley

ALTERNATES PRESENT: Ms. Smith, Mr. Sivick

STAFF PRESENT: Ms. White, Mr. Tsacoyannis, Ms. Rill

PUBLIC PRESENT: Mr. S. Solley, Ms. Arturi, Ms. Solomon, Mr. Charles, Mr. Matthews, Ms. Fredlund, Mr. Fredlund, Mr. Bent

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

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

PUBLIC HEARING (22sec.):

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 Tradesman – to renovate an existing barn – to be used as a shop and for storage used by contractors.

An email was presented to the Commission dated February 24, 2020 to Land Use Administrator, Shelley White, submitted by Mr. Szymanski, P.E of Arthur H. Howland and Associates, representing PH Partners, LLC, officially withdrawing the application for 49 Potash Hill Road.

CONSIDERATION OF THE MINUTES (1min. 00 sec.):

Ms. Rill, Land Use Clerk, noted that she had found an error on page 5, last paragraph; the motion made to approve Harry Wright Electrical Company's Special Permit Extension was listed twice in the minutes. Ms. Rill would make the appropriate correction.

MOTION: To approve the January 27, 2020 Washington Zoning Commission Meeting Minutes, by Ms. Radosevich, seconded by Mr. Reich, passed 5-0 vote.

PENDING APPLICATOINS (1min 32sec.):

There were no Pending Applications for this evenings meeting.

NEW APPLICATIONS (1min 34sec):

There were no New Applications for this evenings meeting.

OTHER BUSINESS (1min37sec.):

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

Ms. Hill reminded the Commission that at last month’s meeting they had gone over the revised language and had made some corrections as deemed necessary. Ms. White made the corrections and sent the Commissioners a revised document of the proposed language.

Ms. Hill stated that at the January 27, 2020 meeting, after the Commission had discussed and agreed upon the revisions to be made, that a member of the public had asked questions regarding the proposed language of Section 12.8 – Temporary Uses, during Privilege of the Floor, and the Commission had answered the questions for clarity. However, due to a number of complaints submitted to the First Selectman’s office stating that once the Public Hearing is closed, no further questions from the public shall be entertained. Therefore, at the recommendation of First Selectman, Jim Brinton who sought the advice of legal counsel, Attorney Michael Zizka, the Commission was asked to consider re-holding the Public Hearing regarding 12.8- Temporary Uses.

The Commission voiced their frustration at this revelation, with Ms. Hill stating that she felt the Commission answered the question out of clarification, that they had not taken in any new information, and that the language had not changed based on anything that was asked or discussed during Privilege of the Floor, however, felt that if there were complaints stating that the Commission did not hold the deliberation fairly, which could put the Commission as well as the Town of Washington at legal risk, that the Commission should do what is recommended by Mr. Brinton and Attorney Zizka.

Ms. White reminded the Commission that they had already put in the “hard work” regarding the language, and that starting the process over would not be as complicated or as time consuming as the first time.

Ms. Hill explained that starting the process over would entail the Zoning Commission sending the current version of the proposed language to the Washington Planning Commission as well as the Northwest Council of Governments for referral once again. Both would have 35 days to review the

proposed language and submit their response, which would allow the Zoning Commission to schedule the Public Hearing in April 2020.

Mr. Reich asked what the Commission would hope to gain by holding a new Public Hearing. Ms. Hill responded by stating that the Commission would have the knowledge that they did everything by proper procedure and were completely transparent during the process.

Ms. Radosevich stated that one benefit to re-holding the Public Hearing would be that the language was more clear, allowing the public to get a less complicated version of what was originally proposed. She stated that although she was not in favor of starting over, that she would vote in favor of starting over for this reason.

Ms. Hill stated that she is in favor of following the recommendation of the First Selectman, as well as legal counsel.

Mr. Werkhoven stated that he disagreed with starting over, but did not want to put the Commission or the Town of Washington in legal jeopardy in any way.

MOTION: To re-hold the Public Hearing regarding Zoning Regulations Section: 12.8 – Temporary Uses, as recommended by Washington First Selectman Jim Brinton as well as legal counsel, Attorney Zizka. The Public Hearing will take place on Monday, April 27, 2020 at 7:30pm in the Upper Level Meeting Room of Bryan Memorial Town Hall, Washington Depot, Connecticut, by Ms. Hill, seconded by Ms. Radosevich, passed 4-1-0 vote, with Mr. Reich opposing the vote.

A lengthy discussion took place regarding current events taking place in Washington and how these events obtained approval. Ms. Hill reiterated that while she was acting as Deputy Enforcement Officer a few years ago, she had allowed the event approval due to a misunderstanding of the regulations with an attorney over the number of days consecutively allowable for an event.

Ms. Radosevich questioned how an event obtained a permit without appearing before the Zoning Commission. Mr. Tsacoyannis explained that the event met all of the current Zoning Regulation criteria for approval. Ms. Radosevich pressed for more details, and Ms. White explained that the Land Use Department cannot deny a permit based on what a Regulation was intended to be, but rather the exact language of that Regulation. Mr. Werkhoven agreed with Ms. White, stating that currently the language of the Regulations allow the event.

Mr. Werkhoven asked for a timetable regarding the re-holding of the Public Hearing and when the Commission could vote on the proposed language. Ms. Hill stated that after the Section is sent out for referral to the Planning Commission and the Northwest Council of Governments, the Commission will proceed with the Public Hearing, and could vote after the Public Hearing is held.

Ms. Hill stated that Chairman Solley had been in touch with Ms. White and questioned why Land Trusts were not listed under Section 12.8.3.C – Temporary Events on Property Owned by the Town of Washington, Religious Institutions or Schools, as discussed at prior meetings. Ms. Hill suggested that Ms. White contact Attorney Zizka and ask him how to proceed. It was unclear when the subject of Land Trusts was not added to the proposed language, but the Commission recalled numerous

discussions pertaining to Steep Rock Association events, as well as Weantinoge Heritage Land Trust events. Ms. Hill stated that she was in favor of adding Land Trusts to the Section. Ms. Radosevich questioned if the Trusts should be identified directly or if simply stating "Land Trusts" would suffice, concerned that someone with a lot of land could form a Land Trust. The Commission agreed that asking Attorney Zizka for his opinion on the subject would be the correct way to go.

The Commission referred to Steep Rock Association's Co-Executive Director, Ms. Arturi, for information regarding how a property owner could obtain Land Trust status. Ms. Arturi suggested that the Regulations could state that a Land Trust be a member of the "Land Trust Alliance", which is a national organization. Ms. Arturi stated that in order to become a member of this organization, the property must meet pretty extensive criteria.

Ms. Arturi made it clear that Steep Rock Association's mission is to conserve the land, not to expand event locations.

Ms. Hill asked Ms. White to check with Attorney Zizka about his language recommendation. Ms. Radosevich asked Ms. White to question whether or not Attorney Zizka recommended listing the Land Trust by name, or if he preferred using, "member of The Land Trust Alliance" in the language.

Ms. Radosevich questioned when the Public Hearing would be held, and whether or not the Commission thought it would be a good idea to hold a Special Meeting beforehand. Ms. Hill explained that the Commission had already set the Public Hearing for April 27, 2020 at 7:30pm, and did not think a Special Meeting would be necessary.

Mr. Reich questioned the timing of when the Regulation, once voted on and approved, when it would be considered "in the books". Ms. Hill clarified that once the proposed Section was voted upon, it would then be legally noticed in the newspaper, and the public would then have 15 days to appeal the decision. Ms. Radosevich stated that if they voted at the April 27, 2020 meeting, then the earliest the Section would be "in the books" would be around May 15, 2020, and would prohibit a new permit being issued for a festival for 2021. Ms. White stated that she did not believe that this should even be discussed or considered by the Commission, to which Mr. Reich agreed. Ms. Hill also agreed, stating that the Regulations are for the entire town, not just one specific site or property.

Ms. Hill stated that while looking over the referral response from the Planning Commission, that she had noticed what she believed some misunderstandings or misinformation that she was concerned with. Ms. White suggested waiting for the renewed Public Hearing, explaining that the Planning Commission's original response was based on the original version of language, which has since evolved.

ENFORCEMENT (38min 22sec):

Mr. Tsacoyannis had distributed his Enforcement Report, dated February 24, 2020 to the Commissioners prior to the meeting and asked if there were any questions. Ms. Radosevich inquired about a property listed on River Road which involved a barn and a driveway to the barn. Mr. Tsacoyannis explained that the driveway existed already and the barn was to be built. Ms. Radosevich then questioned some plantings that had been placed along the river and if there had

been complaints concerning this. Mr. Tsacoyannis explained that everything being done was legal and within the Regulations. Mr. Werkhoven stated that he felt that the property looked great and noted the amount of work done to improve the property.

Mr. Werkhoven asked Mr. Tsacoyannis to update the Commission concerning 237 Roxbury Road. Mr. Tsacoyannis stated that the property owner, Mr. Hodges, has what appears to be an access road coming off of his driveway that contained the dumping of cinder blocks and bricks, to build up the road. Mr. Tsacoyannis stated that the problem with this is that Mr. Hodges did not obtain a permit. Mr. Tsacoyannis explained that he has reached out to Mr. Hodges, by both email and certified letter, to Cease and Desist. Mr. Tsacoyannis has encouraged Mr. Hodges to stop in to the Land Use Office so that they can assist him with obtaining the proper permits.

Mr. Tsacoyannis informed the Commission that 101 Wykeham Road would be appearing before the Inland Wetlands Commission at its next meeting on Wednesday, February 26, 2020, and would update the Zoning Commission on their progress at the March 23, 2020 meeting.

Mr. Reich questioned if there was any news on the homes being built on Mygatt Road. Mr. Tsacoyannis explained that there were three homes, the original home that is on New Milford Turnpike, along with two new homes on Mygatt Road. All three homes would be considered affordable housing and were coming along nicely.

Discussion concerning the line of decision making regarding Permits and Special Permits (47min. 27sec.):

Mr. Werkhoven explained that he had asked Ms. Rill to add this to the Agenda after last month's meeting, to inform and refresh the Commission on its policies. He questioned if the Commission should and/or could be informed of all of the Permits and Special Permits obtained in town. Ms. Hill explained that the Land Use Office does have a list that they submit to the Tax Assessor every month. Mr. Tsacoyannis and Ms. White encouraged the entire Commission, as well as the public, to ask the Land Use Department at any time if they would like extra information on any property or permit, as the department is promoting full transparency and communication.

COMMUNICATIONS (56min 13sec.):

There were no communications for this evenings meeting.

PRIVILEGE OF THE FLOOR (56min. 24sec.):

None –

ADMINISTRATIVE BUSINESS (56min. 30sec):

Ms. Hill announced that Mr. Ted Bent has been appointed to the Zoning Commission as an Alternate. The Commission welcomed Mr. Bent.

MOTION: To adjourn the February 24, 2020 Washington Zoning Commission Meeting at 8:27pm, by Ms. Hill, approved unanimously.

Respectfully Submitted,

Tammy Rill
Land Use Clerk
February 28, 2020

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

****Minutes subject to approval**

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