

PLANNING & ZONING
COMMISSION
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

WILTON PLANNING & ZONING COMMISSION MINUTES DECEMBER 9, 2013 REGULAR MEETING

PRESENT: Vice Chair Sally Poundstone, Secretary Doris Knapp, Commissioners Lori Bufano, Joe Fiteni, Marilyn Gould, Bas Nabulsi, Peter Shiue, and Franklin Wong

ABSENT: Chairman Christopher Hulse (notified intended absence)

ALSO PRESENT: Robert Nerney, Town Planner; Daphne White, Assistant Town Planner; Lorraine Russo, Recording Secretary; members of the press; and interested residents.

NOMINATION & ELECTION OF OFFICERS

In the absence of elected officers, Town Planner Nerney presided over nominations for Chairman and Vice-Chairman.

Chairman:

MOTION was made by Ms. Poundstone, seconded by Ms. Knapp, to nominate Christopher Hulse for the position of Chairman, Planning and Zoning Commission.

There being no further motions, the nominations for Chairman were closed.

Vote on the motion carried (7-0).

Vice-Chairman:

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, to nominate Sally Poundstone for the position of Vice-Chairman, Planning and Zoning Commission.

There being no further motions, the nominations for Vice-Chairman were closed.

Vote on the motion carried (6-0-1). Ms. Poundstone abstained.

Vice-Chair Poundstone, acting as Chairwoman in the absence of Chairman Hulse, presided over the nominations for Secretary.

MOTION was made by Ms. Poundstone, seconded by Mr. Nabulsi, to nominate Doris Knapp for the position of Secretary, Planning and Zoning Commission.

There being no further motions, the nominations for Secretary were closed.

Vote on the motion carried (6-0-1). Ms. Knapp abstained.

Commissioner Gould arrived at approximately 7:17 P.M.

Ms. Poundstone advised members of the audience that application SP#386 (Hoffman Landscapes, Inc.) would be continued, at the request of the applicant, until January 13, 2014. She explained that there would be no presentation from the applicant this evening, although the public was free to stay and make comment if desired.

PUBLIC HEARINGS

1. SUB#912, Fawcett, 27 Redding Road, 2-lot subdivision

Ms. Poundstone, acting as Chairwoman in the absence of Chairman Hulse, called the Public Hearing to order at 7:17 P.M., seated members Bufano, Fiteni, Gould, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated November 25, 2013 and referenced a Planning and Zoning Staff Report dated December 3, 2013.

Present were Kevin O'Brien, land use consultant and realtor; Colleen and Scott Fawcett, applicants/owners.

Mr. O'Brien reviewed details of the 2.3+/- acre parcel, noting that it currently contains two residences, two garages and one pool, and is located in an R-1A (one-acre) residential zone. He explained that the two houses were in a state of total disrepair when the Fawcetts purchased the property from the bank, and they have since improved the main residence where they are currently living. He noted that it is their intent to rehabilitate the other house as well but have experienced financing difficulties since it is considered an unoccupied accessory dwelling unit on the single parcel.

Mr. O'Brien briefly reviewed details of the variance that was granted by the Zoning Board of Appeals (ZBA) to permit a half-acre lot in the one-acre residential zone. He

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explained the hardship as the applicants' desire to preserve the historic homes on the site. He noted that the subdivided lot would still be twice as large as the lots it abuts. He also noted that the applicant has received a verbal septic plan approval from Wilton Health Department.

In response to a question from Ms. Poundstone as to whether the municipality of Redding was notified regarding the proposed subdivision, Mr. Nerney indicated that he would send notice to Redding.

Mr. O'Brien distributed responses to issues raised in the Planning and Zoning Staff Report of December 3, 2013 noting, in particular, that the existing houses would remain but would be totally remodeled; and the driveway on Lot 2 would either be reconfigured or a portion of it removed to address the slight overage in site coverage on the lot.

Mr. Nerney specifically addressed comment #9 of the Staff Report, noting that a lot is typically assessed in terms of its carrying capacity and potential development, recognizing that the configuration of a created lot often outlives the structures the lot accommodates. In that regard, Mr. O'Brien explained that the existing houses are approximately 200 years old and the applicants' plan is to renovate both houses so that they will survive another 200 years. He cited a similar situation with houses next door that are located on even smaller parcels. He also noted that Mrs. Fawcett, who is on the Historic Commission, plans to restore/bring back to life these homes such that they will conform to zoning setback and coverage requirements.

Ms. Gould stated that she is aware of the historicity of the homes/area and she hoped that both houses will be improved/maintained. In response to her concern with the driveway issue, Mr. O'Brien stated that a portion could be graveled and/or the driveway loop could be removed, both of which would reduce site coverage and bring the lot into conformance.

In response to a question from Ms. Gould as to the applicants' intentions with respect to the second lot, Mr. O'Brien stated that the applicants' objective is to own both parcels, not to sell one. He explained that subdividing the parcel into two lots would facilitate bank financing for the necessary improvements.

Mr. Nabulsi questioned how the ZBA is able to make a decision that would seem to control the Planning and Zoning Commission's decision-making as to whether these lots are compliant with subdivision regulations.

Mr. Nerney explained that the ZBA is set up under Connecticut Statutes to waive provisions of the regulations based on hardship, which he noted is not a simple test.

Mr. Nabulsi summarized his understanding of the matter, i.e. that the ZBA felt a

subdivision was reasonable where one of the lots would be an undersized 0.5+ acre parcel in the one-acre zone, but it did not express a view as to whether or not the smaller parcel is otherwise compliant with requirements of the subdivision regulations. Mr. Nerney concurred with that summary, noting that the ZBA's authority is limited to waiving provisions that are brought forward by an applicant, but it doesn't assume the action of approving a subdivision.

Mr. O'Brien pointed out that if the property were entitled to an initial division (i.e. a "first cut"), then the applicant would not have been required to apply for a subdivision approval, but because the property was created in the 1950s, it is not entitled to a first cut.

Mr. Nabulsi asked for clarification regarding the methodology utilized in calculating coverage calculations for the smaller lot, referring in particular to the driveway coverage issue discussed earlier in the presentation. Mr. O'Brien confirmed that coverages were calculated based on the actual square footage of the 0.5+ acre parcel, noting that the lot would be compliant with one-acre residential building and site coverage limitations of 10% and 15%, respectively.

Ms. Gould stated for the record that most other Wilton parcels of this nature should not and could not be approved for subdivision where such an undersized lot would be created, noting that the ZBA must have based its approval upon a concern for the unique historic fabric of the Georgetown area and the fact that this parcel was part of the streetscape that was originally approved. Mr. O'Brien concurred, noting further that the ZBA approval avoided demolition of these smaller historic homes.

Addressing item #7 of the Staff Report, Mr. O'Brien explained that there are two fire hydrants located within close proximity to the property and thus the applicant did not discuss additional fire suppression remedies with the Fire Department.

Ms. White asked about existing trees and stone walls on the property. Mr. O'Brien confirmed that all trees and existing stone walls would remain. Ms. Fawcett noted that a dead ash tree would be removed.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at 7:44 P.M. the Public Hearing was continued until January 13, 2014.

2. SP#386, Hoffman Landscapes, Inc., 647-651 and 631-643 Danbury Road, To amend SP#267 with respect to operation of a contracting business at the premises

Ms. Poundstone called the Public Hearing to order at 7:44 P.M., seated members Bufano, Fiteni, Gould, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated November 25, 2013. She also referenced a Planning and Zoning Staff Report dated December 5, 2013; and a letter dated December 9, 2013 from J. Casey Healy to Planning and Zoning Commission requesting a continuation of the hearing until January 13, 2014 and granting an extension of the deadline to close the public hearing until January 27, 2014.

Ms. Poundstone noted again that the application would be continued until January 13, 2014 at the request of the applicant. She asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at approximately 7:48 P.M. the Public Hearing was continued until January 13, 2014.

3. SP#387, Jersey Mike's Franchise Systems, Inc., 35-39 Danbury Road, To allow a restaurant/fast food establishment without drive-in facilities

Ms. Poundstone called the Public Hearing to order at approximately 7:48 P.M., seated members Bufano, Fiteni, Gould, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated November 25, 2013. She also referenced a Planning and Zoning Staff Report dated December 4, 2013; a series of email communications among Robert Nerney, Craig D. Yannes, Joseph C. Balskus and Doug Bayer dated December 2, 2013, December 6, 2013 and December 9, 2013; a series of email communications among Robert Nerney, Joseph C. Balskus and Doug Bayer dated December 6, 2013 and December 9, 2013; and a draft letter dated December 3, 2013 from Tighe & Bond, Inc. to Planning and Zoning Commission, with attached Table 1 and Figure 1 (Overall Parking Plan) dated November 27, 2013.

Present were Doug Bayer, attorney; Brian O'Hagan and Troy Davidson, Area Directors, Jersey Mike's; Chris Granatini, engineer, Tighe & Bond; and Lee Wilson, property owner/lessor.

Ms. Poundstone noted for the record that Attorney Bayer did legal work for her some years ago and that she and Mr. Bayer had served together on the Planning and Zoning Commission, but both connections were in the past and did not pose a conflict of interest for her.

Mr. Bayer briefly reviewed site plan details, noting that the subject business would be located immediately next door to Dunkin' Donuts and that no additional changes to the site plan are proposed. He referenced a prior application from 2011 for a package store on the site, which required a waiver of 10 parking spaces, noting that the current application would require a waiver of an additional 8 spaces, primarily due to parking requirements associated with fast food use. He noted for the record that regulations permit up to a 20% parking space waiver, or 34 parking spaces, on the site.

Mr. Bayer distributed responses dated December 9, 2013 to the Planning and Zoning Staff Report dated December 4, 2013. In particular he noted that: 1) if an additional dumpster becomes necessary in connection with the proposed use, the applicant would come back before the Commission at that time to discuss location; 2) a total of three loading spaces are now correctly shown on the revised plan submitted this evening; 3) a revised/corrected parking table will also be submitted this evening reflecting a total of 178 required parking spaces, not 184, with rounding done by use category, not by individual tenant.

Brian O'Hagan explained the business plan/concept of Jersey Mike's, noting that it is a fast, casual sandwich concept which offers a higher end product than Subway, competing more with Panera Bread, and which bakes its bread on premises and slices cold cuts fresh in front of the customer. He explained that there are currently approximately 750 stores which they anticipate will grow to over 1000 in the next couple of years, noting that they plan to build the concept throughout New England. He stated that they are all about charity, noting that they give out 10,000 free subs when they open a store with a \$1 donation request to a designated charity; a percentage of all sales in March goes to a designated charity; and 100% of one day's proceeds in the year also goes to a charity, which resulted in a \$2.7 million company-wide donation last year. He noted further that they always get involved with sports teams/events in Towns where they are located.

Troy Davidson indicated that he is an equity partner in the company and is a graduate of McDonald's University.

In response to questions from Commissioners, Mr. Davidson noted the following:

- Cooking odors will be addressed by adding roof-top ventilation, although the only items to be cooked on premises are Philly cheese steak and breads.
- Products/pricing are similar to Panera Bread and Chipotle. While salads and soups (which are pre-packaged) might be offered if the market demands it, such offerings are not really their core business.
- There will be 29 seats in the facility, where 70% of business occurs between 11 A.M. and 2 P.M., of which approximately 60% is to-go.
- Service time for to-go orders averages about 5-6 minutes.
- Deliveries will be in the rear of the building and will occur between 8 A.M. and

11 A.M.

- There are no plans to offer a breakfast menu at this location, although the lease would not allow it in any event due to Dunkin' Donuts next door.
- Walk-in customers are anticipated in connection with offices located across the street.
- Only the front door will be utilized for retail customers.

Chris Granatini distributed another handout, with a revised site plan, to address additional issues raised by staff. Referencing Table 1 in the handout, he noted that total required parking for the site, utilizing the proper rounding methodology, is 178 spaces. In light of a prior approval for a 10-space parking waiver, he noted that the current proposed use requires an additional 8-space waiver.

Referencing Table 2 in the handout, Mr. Granatini stated that a parking survey was conducted on Saturday, November 16, 2013, which is considered peak time for Jersey Mike's. He explained that parking observations were taken between the hours of 11 A.M. and 7 P.M., noting that 1 P.M. was peak time for the subject site with 59 cars parked versus a capacity of 160. Noting that a similar study was conducted by Tighe & Bond back in 2010 in connection with a proposed package store, he stated that the site continues to have ample parking available. He indicated that he drove to the site earlier this evening, prior to the hearing, and found 30 available spaces at 6 P.M.

In response to a question from Ms. Knapp, Mr. Granatini stated that there are 39 parking spaces located in the area between the store fronts and Route 7. Ms. Knapp expressed concern that the 160-space parking capacity is over-stated because visitors to the site don't realize that there are other parking spaces available (besides those 39) that are located in the back and on the side. She called particular attention to the fact that the maximum peak usage of 59 parked vehicles, referenced earlier, would already utilize the full 39 spaces up front, and that is with one store vacant. Mr. Granatini explained that the site is not solely dedicated to retail, noting that many of the back/side spaces are utilized in connection with other non-retail uses on the site. Ms. Knapp noted that the other uses referenced by Mr. Granatini are also in use during hours of operation for the proposed fast-food facility.

Mr. Fiteni questioned the validity of the Saturday afternoon peak assumption, specifically whether a Saturday peak is actually reflective of this particular store where office buildings and other uses are also present on/near the site. He stated that such an assumption seemed odd to him, particularly since some of the other uses would be especially busy during weekdays, especially during lunch time.

Mr. Nerney agreed, noting further that the Moore Center for Rehabilitation closes at 1 P.M. on Saturdays. He recommended that the applicant review parking at other times during the week.

Mr. Nabulsi felt it would also be useful if the applicant focused part of its count against the front 39 spaces since he felt that would be the major concern of the Commission. He also asked if the engineer could provide his professional opinion as to how the Commission should view any parking data provided in light of the currently empty tenant space at the north end of the property, and how that tenant space, when occupied, would ultimately impact vehicle turnover in that front parking area.

Mr. Shiue noted that the front area seems to get quite congested, referring in particular to vehicles attempting to turn left out of the site which often backs up traffic even further. He questioned whether employees are required to park in the back parking area to free up space in the front.

Lee Wilson explained that since the former hardware store (on the north end of the site) has been vacant for 8 years, and the space that is part of the subject application has also been vacant for 3 or 4 years, he has not made any effort to enforce provisions of his leases which restrict parking for employees and tenants. He noted for the record that if there were any issues with customers accessing these stores, he would have heard from his tenants, and he indicated that he has not received any complaints related to parking from any tenants in that building.

Ms. Gould referenced her personal experience with the site for over 30 years, noting that she has never experienced a shortage of parking on the site, even when the hardware store was occupied. She concurred with the recommendation that a parking count be conducted during the week, especially during lunch time. She noted that Dunkin' Donuts would likely experience an earlier morning peak than Jersey Mike's.

Mr. Wilson noted further that there is a strong rotational aspect to parking on this site, with spaces turning over quickly in spite of the large volume of activity generated by Dunkin' Donuts since their customers don't generally stay very long. Also, he noted that there is an easement on the record since approximately 20 years ago when Dunkin' Donuts came to the site for patrons of this shopping center to pass and re-pass across the property to the south, which has access to the traffic light by Peoples Bank. He noted that there are always spaces in that area any time of the day.

Mr. Granatini briefly reviewed the parking study/count that was done on November 23, 2010, for which the site was broken down into separate parking areas. Addressing the 39-parking space area up front, he noted that there were 14 vehicles parked in that area at 2 P.M. and the numbers ranged downward to 7 vehicles by 6 P.M. He stated that he could conduct a similar study as was done back then and he felt that similar results would probably be obtained.

Mr. Wilson noted for the record that many retailers today are getting severe pressure from

“big box” stores and the internet. As an owner, he stated that food-related or personal service type uses are the only potential tenants out there for these many vacant spaces since hard goods tenants do not exist anymore.

In that regard, Mr. O’Hagan noted that the restaurant industry is the second largest employer in the country after the U.S. government.

In response to a question from Ms. White as to whether the aforementioned easement to pass/re-pass on the property to the south also allows parking, Mr. Wilson did not recall any specific reference in the easement language to parking. However, he stated that from a practical aspect, parking does occur on that site and he has never received any complaints from the owner or any tenants on that site relative to parking.

Mr. Nabulsi questioned whether reclassifying the previously-approved package store space as, hypothetically, a shoe store or some comparable use, might reduce overall parking needs for the site. Mr. Bayer explained that a package store is considered retail, requiring 1 space/200 square feet of space, whereas a restaurant use actually requires more parking, i.e. 1 space/100 square feet. Thus the subject 1400 square feet of space, when calculated at 1 space/100 square feet for restaurant use, results in the need for an additional 7 parking spaces, thus accounting for 7 of the 8-space parking waiver requested.

Mr. Wilson pointed out for the record that U.S. Granite, which is essentially a showroom and occupies 2270 square feet of space near the old hardware store, generates a requirement of 11.4 parking spaces, although it probably never uses more than 2-3 parking spaces at any given time. He also referenced Paul’s Prosperous Printing which requires 7 parking spaces yet only utilizes about 3 or 4 at any given time.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at approximately 8:30 P.M. the Public Hearing was continued until January 13, 2014.

REGULAR MEETING

- A. Ms. Poundstone called the Regular Meeting to order at approximately 8:31 P.M., seated members Bufano, Fiteni, Gould, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. November 25, 2013 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Mr. Shiue, and carried (4-0-4) to approve the minutes of November 25, 2013 as drafted. Commissioners Fiteni, Gould, Poundstone and Wong abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

1. SUB#912, Fawcett, 27 Redding Road, 2-lot subdivision

Tabled.

2. SP#386, Hoffman Landscapes, Inc., 647-651 and 631-643 Danbury Road, To amend SP#267 with respect to operation of a contracting business at the premises

Tabled.

3. SP#387, Jersey Mike's Franchise Systems, Inc., 35-39 Danbury Road, To allow a restaurant/fast food establishment without drive-in facilities

Tabled.

F. COMMUNICATIONS

1. David Conneely, 74 Westport Road, Request for Commission interpretation of term "professional office"

Mr. Nerney referenced a letter dated December 4, 2013 from J. Casey Healy to Planning and Zoning Commission requesting Commission interpretation of the term "professional office". He noted Mr. Healy's statement on page 2 of the letter indicating that he would appreciate an opportunity to discuss the matter with the Commission.

Since Mr. Healy was not present this evening due to illness, it was the consensus of the Commission to continue the matter until January 13, 2014.

G. REPORT FROM CHAIRMAN

- 1. Reports from Committee Chairmen**

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. SP#388, 22DR, LLC, 22 Danbury Road, To allow operation of health and fitness club [Public Hearing – January 13, 2014]**
- 2. SP#389, Jackson, 111 Highfield Road, Accessory apartment in existing barn [Public Hearing – January 27, 2014]**

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Ms. Poundstone, and carried unanimously (8-0) to adjourn at 8:35 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary