

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

WILTON PLANNING & ZONING COMMISSION MINUTES JANUARY 27, 2014 REGULAR MEETING

PRESENT: Chairman Christopher Hulse, Secretary Doris Knapp, Commissioners Lori Bufano, Joe Fiteni, Bas Nabulsi, Peter Shiue, and Franklin Wong

ABSENT: Marilyn Gould and Sally Poundstone (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.

PUBLIC HEARINGS

- 1. 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**

Mr. Hulse called the Public Hearing to order at 7:15 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date. Ms. Knapp referred for the record to a memorandum dated January 27, 2014 from Jennifer M. Zbell to Daphne White; a letter dated January 13, 2014 from J. Casey Healy to Planning and Zoning Commission; a memorandum dated January 10, 2014 from Jennifer M. Zbell to Robert Nerney and Daphne White; and a 5-page letter dated January 10, 2014 from J. Casey Healy to Planning and Zoning Commission with two attachments.

Present were J. Casey Healy, attorney; Steven C. Sullivan, engineer, CCA Engineering, LLC; and Michael Hoffman, President, Hoffman Landscapes.

Mr. Healy referenced the two subject parcels on a posted site plan, noting that they are both owned by the State of Connecticut and are leased by the State to Hoffman Landscapes. He stated that the 2.24+/- acre parcel houses offices, garage and a contracting yard and the 0.91+/- acre parcel is landlocked. He briefly reviewed proposed site modifications including a new office, additional parking, an emergency generator, updated landscaping/lighting, and a new decorative screening wall on the larger parcel; and storage sheds, diesel fuel tank and palletized materials to be installed on the smaller parcel.

Mr. Healy referenced a Planning and Zoning Staff dated December 5, 2013 and a letter of response dated January 10, 2014. He reviewed the applicant's responses on a point by point basis. In particular, he noted that:

- 1) two 550-gallon tanks would be located south of the tool storage containers as shown on the site plan and would satisfy established standards of Underwriters Laboratories, Inc. and meet the National Fire Prevention Association codes;
- 2) there would be no drainage onto The Rau Family LP property at 631-643 Danbury Road, referred to as Calico Corners, per the opinion of civil engineer Steven C. Sullivan of CCA Engineering;
- 3) light poles have been relocated on the revised plan and no longer conflict with the white pines, one of which has been removed due to interference with the proposed detention basin;
- 4) an application has been filed with the Zoning Board of Appeals to address an insufficient rear yard setback for the proposed tool storage structures (proposed at 59 feet in lieu of the 85-foot setback required);
- 5) lighting fixtures will direct lighting downward as required.

Referencing a Health Department memorandum dated January 27, 2014, Mr. Healy noted that the Department has no objection to the proposed site improvements.

Mr. Sullivan reviewed engineering aspects of the project in response to questions pertaining to drainage issues on the site. He explained that pre and post-development conditions were studied, with the resulting conclusion that there would be no change in the directional flow of drainage from northwest to southeast on the parcels, and no drainage would flow onto the Calico Corners property.

Mr. Nabulsi arrived and was seated at 7:32 P.M.

Mr. Nerney explained further that the proposed storage sheds would be predicated on obtaining approval for the aforementioned variance. He asked whether the applicant preferred to leave the public hearing open until that issue is resolved with the Zoning Board of Appeals (ZBA), or if the applicant wished to remove that particular item from the application for consideration at a later time. Mr. Healy indicated that the applicant wished to continue the hearing until February 24, 2014 to give the ZBA time to review the variance application.

In response to questions from Mr. Wong regarding runoff on the site, Mr. Sullivan

referenced his Drainage Report of October 17, 2013, noting in particular that the proposed detention system would decrease peak flow on the site to 7.28 cfs (cubic feet per second) as compared with pre-development conditions of 7.42 cfs. He also explained that the plan is for an open, excavated detention basin rather than an underground system, primarily for ease of maintenance.

Mr. Hulse asked if anyone in the audience wished to speak for or against the application.

Attorney Frank Murphy of Tierney, Zullo, Flaherty and Murphy, stated that he and Attorney Vasko of his firm are representing the interests of the Rau Family Limited Partnership, owners of real estate at 631-643 Danbury Road. He reviewed a history of the properties in question, noting that the Rau property fronting on Danbury Road was originally almost 2 acres, but the DOT condemned the rear portion (the subject 0.91-acre parcel that Hoffman is currently leasing from the State) for the proposed Route 7 back in 1971. As a result, the rear corners of the Rau building, located on the now-reduced parcel, is situated only 2.3 feet and 8.8 feet, respectively, from the rear property line. He stated that it is his client's opinion that the State should have offered to lease said parcel to the Rau family, although he acknowledged that this is not a matter for this Commission.

Mr. Murphy distributed copies of the Town's Assessor's Map highlighting the referenced parcels and the aforementioned rear setbacks of 2.3 feet and 8.8 feet. He expressed concern with the proximity of the Calico Corners building to the rear property line, citing insufficient access space for routine maintenance and fuel oil deliveries, as well as fire/emergency vehicle access if a fence is installed along the property line. He also expressed concern that storage of fertilizers, pesticides, herbicides, etc. on the Hoffman property could have a deleterious impact on his client's well, located 6 feet from the rear of the building, although he acknowledged the applicant's contention that no such chemicals are to be stored on the property. He explained that his clients had a bad experience in that regard during the time that the State was operating the yard and was storing road salt on the site.

Mr. Murphy specifically referenced comment #4 of the Planning and Zoning Staff Report detailing the proposed establishment of a detention basin in the southeasterly corner of the site. He expressed concern since his client's septic is located on the southerly side of the Rau building. Although he acknowledged that the applicant's engineer indicated this would not be an issue, Mr. Murphy requested a condition of approval, if this application is ultimately approved by the Commission, that there shall be no additional runoff onto the Rau property.

Mr. Murphy noted further that his client expressed an interest in sub-leasing from Hoffman a small portion of the rear of the property (approximately 1000 square feet out of the total 39,000 square feet that Hoffman now leases from the State) to address some of the access issues previously cited, but the leasing fee requested by Hoffman was considered excessive by his client.

Mr. Murphy also expressed the following concerns: 1) if the existing fence will be extended along the property line then some provision should be made to allow for access to the rear of his client's property; 2) gravel mining should not be permitted on the site; 3) bulk storage of fuel should not be permitted in the rear; 4) concerns regarding the contents of the proposed storage bins.

Mr. Murphy distributed copies of a letter of opposition dated January 27, 2014, with attached letter from the DOT dated December 18, 2013, and a copy of the Town's assessor's map for the subject properties. He also distributed copies of 5 color photos of various views of the area behind his client's building including the air conditioning unit, stockade fencing and shed/storage containers.

In response to a question from Ms. Knapp, Mr. Murphy acknowledged that his client has been using part of the 1971-condemned property that Hoffman is now leasing and which his client has not technically had the right to use, but he noted that the State never objected to such use over the years nor was his client ever given the opportunity to lease that area from the State. He asked that the Commission recognize this issue and not allow safety and maintenance problems to be created on the site, nor allow possible storage of chemicals/pesticides in close proximity to his client's well. He requested further that the Town apply its regulations to allow the status quo to continue (which has allowed his client access to the rear of the property for over 40 years) and to respect required setbacks.

Mr. Fiteni stated that he would like some assurance from the applicant that the fuel tanks are or will be double-walled; if not, he noted that the potential hazard would be as great as the chemical concerns expressed by Mr. Murphy.

Mr. Nabulsi asked for clarification as to which specific regulations Mr. Murphy felt the Commission should address/enforce to satisfy his client's requests. Mr. Murphy referenced page 3, item #4, of his aforementioned letter of opposition concerning the issue of potential runoff onto his client's property, which he noted was also addressed in the Planning and Zoning Staff Report. Referencing in particular item #3 of Mr. Murphy's letter, which requests that the Commission require Hoffman to sublease a portion of the DOT land to Rau, and item #6 of the letter, which requests accommodations to Rau for access to the rear of the building, Mr. Nabulsi stated that he was not aware of any provision in the Town's regulations that would allow the Commission to enforce such conditions.

Mr. Murphy stated that his client's situation is unique because of the State's 1971 condemnation of the land, noting that he has never come across this type of situation before where the State has cut a property line so close to a building. He felt that this represents an opportunity for the Town to apply reasonable conditions to address the aforementioned issues that will arise for his client as a result of the proposed site modifications.

Mr. Nerney urged a dialogue between the two respective property owners, noting that many of the issues raised this evening seem to be of a civil nature. Mr. Murphy

stated that they have addressed the issue with the State and with the applicant's attorney. He noted again that the applicant's response to his client's sub-lease request was unreasonable (i.e. \$10,000 for 1,000 square feet of space, where the applicant is paying \$25,000 to the State for approximately 39,000 square feet).

In response to a question regarding adverse possession, Mr. Murphy explained that such an argument cannot be utilized against the State or any municipality.

Mr. Hulse pointed out that the 1971 condemnation would have resulted in fair compensation being paid to the owner at that time for the loss of that portion of land.

Mr. Murphy noted that the State has agreed to a possible sub-lease to his client, but his client has not agreed to the terms proposed by the applicant.

Mr. Hulse asked whether the oil tanks could be relocated for easier access. Mr. Murphy stated that it was perhaps an option although it has not yet been checked out for feasibility.

Mr. Nerney again pointed out that the Commission is obligated to consider issues in terms of its regulations, noting that it would be nice to see a spirit of cooperation between the parties.

Karen Steinhaus, one of the co-owners of the Calico Corners property and present in the audience, stated that there are 2 oil tanks on the site and, given the small amount of land from the tanks to the property line, it would require an extremely thin fuel delivery person to fit in to the available space. She also noted that her father had received a variance from the Town for this building after the condemnation was already in place. As a result, she felt that the Town has some obligation to address the current situation. She questioned whether the inland Wetlands Commission has been involved in light of the proposed detention system on the subject property.

Ms. Steinhaus also advised the Commission that there was a tremendous amount of activity that has occurred on this property without permits, noting that the current land contours are not the original contours. In closing, she stated that there is a lot of misinformation being provided, and the Town should examine the matter carefully to understand the damage that is being done to her and her co-owners as taxpayers.

Mr. Nerney noted for the record that all applications are forwarded to the Director of Environmental Affairs. He explained that it was the Director's opinion that no regulated wetlands would be affected in connection with the proposed site modifications for the subject property.

Mr. Nabulsi referenced Section 29-10.A.9 of zoning regulations [Special Permit - Standards for Approval], citing in particular the Commission's ability to consider development impact on the neighbors/neighborhood. He noted that he would personally be troubled if, in fact, the Rau property would be unable to accept oil deliveries as a result of the proposed site modifications.

In response to a question from Mr. Hulse, Mr. Nerney stated that staff could research the variance that was previously granted for the subject property, although he was not sure whether records from that timeframe would still be available, and he was also unsure as to the relevance of any such variance or how the Town would bear any responsibility in that regard as alleged by Ms. Steinhaus.

For the record, Ms. White noted that she had not found any evidence of a prior variance for the property in the Planning and Zoning Department's records and thus there may not be any ability to research the matter further, unless it was filed in Land Records at the Town Clerk's office.

There being no further comments from the Commission or the public, at 8:25 P.M. the Public Hearing was continued, with the applicant's consent, until February 24, 2014.

2. SP#388, 22DR, 22 Danbury Road, To allow operation of health and fitness club

Mr. Hulse called the Public Hearing to order at 8:25 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Nabulsi, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date. Ms. Knapp referred for the record to a response letter dated January 27, 2014 from J. Casey Healy to Planning and Zoning Commission, with attached revised Site Concept Improvements and Traffic Queuing Plan dated January 23, 2014.

Present was J. Casey Healy, attorney; Craig Yannes, engineer, Tighe & Bond; and Ethan Hirschmann, Principal, CrossFit.

Mr. Healy reviewed the aforementioned response letter and revised site plan, noting in particular that 1) stop signs will be installed at the intersections of the parking aisles with the site driveway; 2) a total of 7 vehicles would be able to queue in the site driveway before reaching the Fawn Ridge property; 3) the applicant is willing to have a condition of approval requiring 2 one-week post-development parking/traffic studies conducted at the 6-month and 1-year anniversaries of gymnasium opening and, if any problems are indicated, to submit a plan to address such problems; 4) the owner will allow children to wait in the grassy area off the building and a bench may also be placed in front of the building for use by children waiting for school buses.

Mr. Hulse requested that any post-development traffic/building studies be conducted when schools are open and children/classes are in session.

Mr. Healy explained further that if a problem were noted as a result of the studies, then either the class size would be reduced from the maximum of 22, or classes would be staggered at intervals greater than 1.5 hours to elongate the 30-minute gap

time currently proposed.

Ms. Knapp felt that the 7-car queuing diagram was unrealistic because only 4 cars would fit before the CrossFit driveway would be blocked, and because the diagram does not take into account cars coming into CrossFit or drivers being courteous enough to allow another car to cross in front of them. She also expressed concern about snow storage interfering with traffic/parking on the site. Mr. Healy stated that snow could be moved to the area north of the building, which could be required via a condition of approval.

Mr. Hulse stated that he would be concerned if some of the class times coincided with school bus pick-up on the site, particularly during winter months. In that regard, Ms. Knapp noted that there would be 3 Norwalk and 3 Wilton school buses coming to the site 2 times per day. She stated that she would want to be assured that CrossFit peak times would not coincide with school bus pick-ups/drop-offs.

Colleen Delaney, a representative for CrossFit, stated that she recently conducted her own personal traffic study of the site on two consecutive Thursdays. Her observations were that a High School student was picked up on the Gateway side of the driveway at 6:48 AM, and at 7:35 AM a car parked on the driveway and someone was picked up on the Gateway side. She stated that those were the only 2 buses she observed, although she acknowledged that RTS vans pulled in twice.

Mr. Healy noted for the record that the 100+-unit Avalon development in Wilton Center has generated only approximately 10-12 school-age children, so he concurred that there may not be that many children being picked up by school buses on the subject site.

Mr. Yannes addressed a question regarding the possibility of both right and left turn exiting lanes on the site. He explained that the driveway is only 29.2 feet wide and thus would not accommodate three lanes, for which approximately 34 feet would be required. In addition, he noted that the State, which has jurisdiction over the driveway, would in all likelihood not want to widen it for such a low traffic location.

Mr. Nabulsi asked if there would be enough space to accommodate a parallel pull-off parking area for cars waiting for school buses. Mr. Yannes stated that they did not look into that possibility.

Mr. Nabulsi also asked if the applicant had addressed the issue of a sidewalk extension northward along Danbury Road, which was raised at the previous hearing. Mr. Healy referenced the existing sidewalk on the site plan. He explained that the State does not allow sidewalk installation within its easement area, noting that the Gateway shopping plaza faced the same issue during its recent site improvement process. He stated that a beaten path currently exists within the grass area. In response to a further question from Mr. Nabulsi, Mr. Healy acknowledged that the applicant could probably extend the sidewalk closer toward the corner of the building than currently exists while still not encroaching into the State easement, and he

indicated that the applicant would consider that option if the Commission so desires.

Mr. Hulse asked if anyone in the audience wished to speak for or against the application.

Marion Barbieri, a Fawn Ridge resident on the Norwalk side, expressed concern with traffic gaps, noting that it takes a long time to get out of their driveway, particularly in the height of rush hour. She referenced the traffic lights at Kent Road and at Gateway and the fact that it sometimes takes 2 or 3 light cycles to exit the driveway safely, particularly around 6 PM on week nights and 11 AM on Saturday mornings. She expressed concern that increased traffic in/out of the driveway will negatively impact their unit values and their lifestyles, with the potential for more accidents in the area as well.

Attorney Barbara Hager stated that she represented the interests of the Fawn Ridge Condominium development and she indicated that the Board of Directors for Fawn Ridge has taken the position that it opposes the application. Although the applicant has agreed to subsequent parking studies and installation of a bench on their site, she stated that the proposed use is too dense for that location, citing the anticipated 22 additional vehicles every 1.5 hours. She expressed concern that client overlap between the classes will result in parking on Fawn Ridge Lane and that CrossFit clients may decide to leave their cars on the site, particularly during warmer months, while they walk over to Gateway to shop. She closed by again noting the Condominium's objection to the application, referencing in particular the Commission's ability to consider the well-being of neighbors and the neighborhood as per its Special Permit regulations.

Daria Veccia, a Fawn Ridge resident on the Norwalk side, referenced the applicant's inclusion of a yoga room in its submitted materials. She asked for clarification on the planned use of the yoga room and the potential impact such use may have on parking/traffic. She asked what guaranties would be given that the applicant wouldn't rent it out or decide to use it, resulting in additional parking/traffic impacts not heretofore reflected.

Ethan Hirschmann, principal, CrossFit, explained that classes are sign-up only, with cancellation fees levied for no-shows, so the number of clients will be clearly specified. He stated that the yoga room will be utilized for personal one-on-one training during hours when no classes are in session, namely after 7 PM; in the middle of the day; and on weekends. He assured the Commission that as membership grows they will be monitoring the number of people hanging around the facility in between classes and will reduce class size, if/where needed, so that traffic/parking will not be impacted.

Matthew Stocky expressed concern regarding emergency vehicle access into the Fawn Ridge development for both municipalities of Norwalk and Wilton. He felt that signage on the right-hand side of the driveway would be helpful to prevent

parking in unauthorized areas.

Mr. Nerney asked the traffic engineer how the proposed use would compare with other uses that would also be allowed in the DRB district (e.g. banks, retail stores, medical offices, etc.), with respect to concentration of persons using the facility, traffic, parking, etc. Mr. Yannes stated that some of the other permitted uses would generate even higher traffic than the proposed use, citing in particular a bank or a daycare center use.

Allison Jennings felt that if the driveway cannot be widened, it will be impossible to make a right-hand turn into the development, and there will also be traffic back-up in the southbound direction during evening hours if a dedicated left-hand turn into the development is not permitted. She believed that CrossFit clients will likely walk over to Mrs. Green's in the Gateway shopping center and leave their cars parked on the site, adding to parking/traffic issues.

In response to a question from Mr. Nabulsi, Mr. Healy explained that the property owner is not able to do anything at the driveway entrance without Conn DOT approval.

In that regard, Mr. Yannes stated that they could investigate with the State regarding the possibility of straightening out the driveway or possibly striping a narrower exit lane to give extra room for cars coming into the driveway, although he felt that realigning/straightening out the driveway might not be a safe alternative because it would then be in closer proximity to the Gateway driveway.

There being no further comments from the Commission or the public, at 9:12 P.M. the Public Hearing was closed.

REGULAR MEETING

- A. Mr. Hulse called the Regular Meeting to order at 9:12 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Nabulsi, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. January 13, 2014 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried (7-0) to approve the minutes of January 13, 2014 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. REG#14343, Proposed moratorium on acceptance of applications for Medical Marijuana Dispensary and/or Production Facilities

It was the consensus of the Commission to accept the application and schedule a public hearing date for February 24, 2014.

E. PENDING APPLICATIONS

1. 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 until February 24, 2014.

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

The Commission reviewed Draft Resolution #0114-1P.

A discussion ensued regarding proposed condition #8 regarding a required walkway demarcation along the south side of the north access drive since the originally proposed walkway on the southern side of the building was deemed, upon further examination by staff, to be unsafe. In light of this modification, Mr. Nabulsi stated that he was unsure whether he could vote in favor of the application since there would be no provision for safe passage from the rear of the building to the front.

Mr. Nabulsi noted that the applicant is requesting an 8-parking space waiver since only 6-8 spaces were determined to be available during peak periods where 12 spaces are needed. He contrasted the proposed use with a retail use where less parking would be required on the site and the Commission would not be in this position of granting a waiver for the proposed use.

Ms. Knapp concurred, noting further that she personally observed only 5 vacant parking spaces at 2 P.M. on the day of this meeting, and she emphasized that there are currently 3 vacant stores still on the site.

Mr. Wong questioned how the Commission could deny the application. He felt that while parking may not be optimal, parking on the overall site, with the parking waiver included, would be adequate and hasn't been ruled unsafe/untenable.

Ms. Knapp felt that parking on the site would be unsafe in addition to not being optimal and could potentially confer liability on the Town.

Mr. Hulse expressed concern that requiring demarcation of a walkway on a particular area of the site might imply that the Town is promoting its use.

Members of the Commission indicated that they were cognizant of the importance of this particular retail location in Town and most members ultimately agreed with Mr. Wong's sentiments with respect to adequacy of parking on the site as a whole, once the parking waiver is factored in.

The Commission also agreed to remove from the resolution proposed condition #8 regarding a proposed demarcated walkway, and condition #6 pertaining to prohibition of sale of alcoholic beverages on the site.

MOTION was made by Mr. Nabulsi, seconded by Mr. Fiteni, and carried (6-1) to adopt as amended Resolution #0114-1P for SP#387, effective January 30, 2014. Ms. Knapp opposed.

WHEREAS, the Wilton Planning and Zoning Commission has received an application from Jersey Mike's Franchise Systems, Inc. for a Special Permit (SP #387) for a proposed fast-food takeout restaurant, for property located at 35 Danbury Road, (a/k/a 39 Danbury Road), Assessor's Map #84, Lot #33, located in a General Business "GB" Zoning District and encompassing an area of 3.459 acres of land. The subject property is owned by Wilson Properties, I, LLC and proposed improvements are shown on the plans entitled:

ALTA/ACSM Survey Map of Property, prepared for Wilson Properties, I, LLC, 39 Danbury Road, prepared by Charles L. Leonard, land surveyor, dated 5/31/2006, noted scale of 1"=30'.

Overall Parking Plan, prepared for Kent Center, 35-39 Danbury Road, prepared by Tighe&Bond, engineers, dated 11/27/2013, not to scale.

Overall Parking Plan, prepared for 35-39 Danbury Road, prepared by Tighe&Bond, engineers, dated 11/23/2010, not to scale.

Preliminary Floor Plan, Not For Construction, prepared for Jersey Mikes Subs for Brian O'Hagen and Troy Davidson, dated 09/16/2013, not to scale.

WHEREAS, the Planning and Zoning Commission conducted a public hearing commencing on December 9, 2013 and continuing to January 13, 2014 to receive comment from the public and has fully considered all evidence submitted at said hearings; and

WHEREAS, the Planning and Zoning Commission finds the proposal to be consistent with the established uses in the General Business zoning district; and

WHEREAS, the Planning and Zoning Commission finds the application to be in compliance with the Zoning Regulations of the Town of Wilton.

NOW THEREFORE BE IT RESOLVED that effective January 30, 2014 the Wilton Planning

and Zoning Commission **APPROVES** Special Permit #387 for a proposed fast-food takeout restaurant, with the following conditions:

1. This Resolution does not replace requirements for the applicant to obtain any other permits or licenses required by law or regulation by the Town of Wilton, such as, but not limited to: Zoning Permit, Sign Permit, Building Permit, Certificate of Zoning Compliance; or from the State of Connecticut or the Government of the United States. Obtaining such permits or licenses is the responsibility of the applicant.
2. In accordance with Section 8-3(i) of the Connecticut General Statutes, all work or physical improvements required and/or authorized by the approved site plan shall be completed within five (5) years of the effective date of this resolution. This five-year period shall expire on January 30, 2019.
3. The Commission approves the applicant's request to waive eight (8) on-site parking spaces. Note, this waiver is in addition to a previous waiver of ten (10) on-site parking spaces approved in 2010. Such waiver is supported by the findings of the applicant's traffic engineer, who has concluded that, due to variations in business operating hours, an availability of excess parking space can adequately and safely support the needs of both current and proposed businesses.
4. Unless otherwise waived by the Commission, the restaurant shall not be open to the public between of the hours of 10:00 p.m. and 10:00 a.m.
5. A trash receptacle shall be placed outside the business entrance; maintained and emptied on a routine and needed basis.
6. Directional signage shall be strategically placed in designated areas of the front easterly parking area, instructing patrons of the availability of overflow parking in the rear of the property. The location, size and design of such signage shall be subject to the review and approval of the Planning and Zoning Commission staff and described improvements shall be completed prior to the issuance of zoning compliance.
7. All proposed rooftop mechanical equipment shall be shielded from public view, either through the utilizing of existing screening or erection of the additional screening. Plans depicting compliance with shielding requirements shall be submitted, reviewed and approved by the Planning and Zoning Department staff prior to the issuance of a Zoning Permit. Prior to the issuance of a zoning compliance certificate, such screening shall be subject to the review and approval of the Wilton Zoning Enforcement Officer.
8. Following the first the six months of business operation, the Planning and Zoning Commission staff shall review and assess the adequacy of the existing trash dumpster for accommodating generated refuse. If the staff deems the dumpster to be inadequate, then

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the applicant shall be responsible for adding an additional dumpster, increasing the capacity of the existing dumpster or increasing the frequency of pick-ups, so as to adequately address site needs. Such facility shall be compliant with all public health code requirements and shall be satisfactorily screened to staff satisfaction.

9. The applicant shall file a Land Record Information Form with the Town Clerk (form to be provided by the Planning and Zoning Department) prior to the issuance of a zoning permit.
10. Prior to the issuance of a zoning permit, the applicant shall obtain final approval from the Wilton Health Department.
11. Deliveries to the restaurant shall be conducted by way of the building's rear entrance.
12. Any new exterior lighting shall be subject to review and approval by the Planning and Zoning staff. In addition, all lighting, other than safety lighting, shall be extinguished by 11:00 p.m.
13. Prior to installation, all proposed signage shall be subject to the review and approval of the Wilton Zoning Enforcement Officer.
14. Two (2) completed revised sets, (collated and bound) shall be submitted to the Commission's office for endorsement as "Final Approved Plan" by the Town Planner prior to receiving a zoning permit. Said plans shall include all revisions noted above and shall bear an ORIGINAL signature, seal and license number of the professional responsible for preparing each plan or portion of it. Said plans shall include the following notes:
 - a. "According to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Special Permit amendment shall be completed within five years after the approval of the plan. Said five-year period shall expire on January 30, 2019."
 - b. "For conditions of approval for Special Permit SP#387, see **Resolution #0114-1P**."

- END RESOLUTION -

3. SP#388, 22DR, LLC, 22 Danbury Road, To allow operation of health and fitness club

The Commission discussed details of the application.

Mr. Shiue felt that the Town could not deny the owner of the building the right to benefit from his asset, although he understood the concerns expressed by Fawn Ridge residents. He cited the anticipated benefit of little or no vehicle traffic while classes are in session, and felt that residents would eventually adapt and figure out the new schedule

Mr. Wong also questioned how the Commission could deny the application. He felt that while the issues are real, the State has ruled that the driveway is safe, although he acknowledged that the use has always been retail in the past.

Mr. Fiteni noted that other retail establishments that would be permitted on the site might result in similar or perhaps even worse traffic/parking situations. He thought it more likely that overflow parking would occur in the Gateway shopping center rather than the reverse.

Ms. Bufano was pleased with the applicant's willingness to adjust class size and/or make other accommodations, if necessary, and she noted that the use does fit the area.

It was the general consensus of the Commission that staff should draft a resolution of approval with some of the specific language noted by the applicant included as conditions of approval to capture/memorialize what was promised by the applicant.

F. COMMUNICATIONS

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

Mr. Healy referenced a question that arose at the last meeting as to whether the proposed mindfulness center might qualify as a home occupation under zoning regulations. He referred to Section 29-2.B.74 (definition of "Home Office, Home Occupation"), noting that the proposed center does appear to qualify as a home occupation, in addition to a professional office. Referencing Section 29-5.C.4 (Professional Offices and Home Occupations for Resident Occupants), he noted that there are a number of limitations that must be met and that will be enforced by the Zoning Enforcement Officer whether the business is considered a professional office or a home occupation, including limitations on square footage, number of employees, signage, etc.

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Mr. Healy noted that since a professional license is not required for the proposed activity by the Department of Consumer Protection, it might be easier to categorize the proposed use as a home occupation rather than a professional office.

Mr. Healy also confirmed that the business would operate by appointment only.

Addressing the question of which category the proposed use would qualify under, Mr. Nabulsi stated that it appears to fit under either category of Section 29-5.C.4 (i.e. home occupation or professional office) and since the requirements are the same for both, he felt that it was not necessary to decide this evening.

It was the consensus of the Commission that the matter should be handled administratively from this point on under Section 29-5.C.4 of zoning regulations.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried unanimously (7-0) to adjourn at approximately 10:05 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary