

PLANNING & ZONING
COMMISSION
Telephone (203) 563-0185
Fax (203) 563-0284



TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

WILTON PLANNING & ZONING COMMISSION MINUTES MARCH 10, 2014 REGULAR MEETING

PRESENT: Chairman Christopher Hulse, Vice-Chair Sally Poundstone, Secretary Doris Knapp, Commissioners Lori Bufano, Bas Nabulsi, Peter Shiue, and Franklin Wong

ABSENT: Joe Fiteni, Marilyn Gould (notified intended absences)

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, Hulse, Knapp, Nabulsi, Poundstone, and Shiue, 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 letter dated February 24, 2014 from J. Casey Healy to Planning and Zoning Commission; a 4-page letter dated February 20, 2014 from J. Casey Healy to Planning and Zoning Commission, with attached plans and document; a 5-page response letter dated February 20, 2014 from J. Casey Healy to Planning and Zoning Commission, with attached photos; an email sent February 21, 2014 from Joseph F. Paola of Georgetown Fire District to Daphne White; a letter dated March 6, 2014 from J. Casey Healy to Planning and Zoning Commission in response to email from Joseph

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Paola; a 5-page letter dated March 10, 2014 from Frank W. Murphy (Tierney, Zullo, Flaherty and Murphy, P.C.) to Planning and Zoning Commission.

Present were J. Casey Healy, attorney; Mike Hoffman, principal; and Steve Sullivan, engineer.

Mr. Healy explained that the reason for the continuance from January 27, 2014 was to address comments/questions from the Commission and staff and to address issues raised by Attorney Murphy at the last hearing. He referenced two letters of response, both dated February 20, 2014.

Mr. Wong arrived and was seated at 7:18 P.M.

Ms. Poundstone noted for the record that although she was not present at the January 27th meeting, she had reviewed all minutes/documentation from the hearing and felt that she was fully prepared for this evening's hearing.

Mr. Healy reviewed the first letter of February 20, 2014, referencing in particular Stormwater Management Plan changes, a Septic System Expansion Plan, and a legal notice in connection with a recently approved variance for tool storage sheds located within the required rear setback. He noted further that an existing fence on the ConnDOT parcel was installed by the owners of the Rau property without permission or authorization from either Hoffman or ConnDOT; and septic testing was approved by the Wilton Health Department.

Mr. Healy also referenced his detailed response (in the same letter) to Mr. Nabulsi's inquiry at the last hearing as to the standards of approval for a Special Permit. Referencing Section 29-10.A.9 of zoning regulations, Mr. Healy explained that the applicant complies with all seven standards as set forth in the aforementioned Section.

Mr. Healy next referenced his 5-page letter of response dated February 20, 2014 to Attorney Frank W. Murphy of Tierney, Zullo, Flaherty and Murphy, P.C. He reviewed each of the claims and conditions on a point-by-point basis, noting in particular the following:

- The proposed fence location was not raised as an issue by the Fire Department in connection with fire/emergency vehicle access for the Rau property;
- The Health Department raised no objection/concerns in connection with possible contamination of the existing Rau well;
- There will be no adverse impacts to the Rau property in connection with water runoff;
- Only noncombustible materials will be located on the pallets located on the property line, as per the Fire Marshal's recommendation, and bag

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- mulch/hay will be stored elsewhere, away from the Rau building/property;
- All tool storage sheds have been relocated on the plans so as to be no closer than 59 feet to the rear yard, as permitted by the recently granted variance.

Mr. Hoffman distributed revised plans to the Commission reflecting the aforementioned plan modifications.

Mr. Healy noted that the entire .91-acre parcel will essentially be fenced in to prevent theft. It was also noted that two dumpsters will be utilized on the site – one for “green” debris (branches, plant materials, etc.) and another for general debris that cannot be mixed in with the “green” debris.

Responding to a question from Mr. Nabulsi pertaining to the existing fence, Mr. Healy explained that if the parties agree on terms of a possible sub-lease, then the existing fence will remain as is. If there is no sub-lease agreement between the parties, then the State will likely ask Rau to take the fence down and/or give Hoffman permission to take it down, in which case Hoffman will erect an 8-foot fence, as proposed on the plans.

Mr. Hoffman explained further that the 8-foot fence would be chain link with 6-foot privacy slats and would be constructed along the property line, with white pines planted on the property line south of the fence to provide additional screening.

Mr. Nabulsi asked for clarification in connection with the Rau’s allegation that their property would be safer if they had a sublease for the small cross-hatched area indicated on the plans. Mr. Nabulsi explained that he wanted to be sure he was not overlooking some serious safety issue.

Mr. Hoffman referenced again the Fire Marshal’s email of February 21, 2014, which indicated that the proximity of the fence to the Rau building is an “acceptable arrangement” and therefore would not present a safety issue in connection with access to oil tank/HVAC equipment. In that regard, Mr. Hoffman noted that such equipment is sometimes located in inaccessible basements and crawl spaces, which he noted is not the situation on this site, and he referenced submitted photos of an existing doorway that provides ready access from the building to the units.

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, P.C. stated that he was representing the Rau family.

Mr. Murphy acknowledged that a number of issues previously raised on behalf of his client have been addressed by the applicant, but he asked that the Commission address the

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following:

1) A new fence along the property line, as proposed by the applicant, would make it difficult for the Raus to maintain and service their existing oil tanks/HVAC equipment. He asked that the Commission require that the fence be placed along the line of the existing stockade fence and to the rear of the “palletized area” so that access to the rear of the Rau building will not be impeded. He felt that Special Permit regulations permit such oversight/intervention on the part of the Commission since they allow effects on adjoining property owners to be taken into account.

2) Storage of materials such as herbicides, fertilizers, etc. should not be permitted in proximity to the Rau well and he asked that such a condition be included in any Special Permit approval.

Mr. Murphy felt that the foregoing concerns are valid and can be properly addressed under Special Permit regulations, noting further that none of Rau’s requests will affect the applicant’s use of the leased area in any way.

Ms. Knapp asked whether construction/placement of the fence as requested by the Raus would essentially allow the Raus to use Hoffman’s leased property without having to sublease it from him.

Mr. Murphy acknowledged that would be the case, but he noted that it is public property, originally slated for public highway use and not for a business. He noted that if the State were using it for that public purpose, they would not be before the Commission this evening. He noted further that the State leased it to Hoffman without any consideration given to the Raus, although he indicated that if the fence were installed as requested by his client, then something would likely have to be done to satisfy both Hoffman and the DOT with respect to Rau’s resulting access to/potential use of the leased area.

Mr. Healy disagreed about it being public property, noting further that the Raus were not supposed to be on the property in the first place.

Mr. Hoffman noted that he is paying to lease the property and would therefore like to enjoy use of it.

Addressing concerns regarding storage of fertilizers, pesticides, etc., Mr. Healy explained that there are State regulations regarding storage of such items, with which Hoffman fully complies. However, Mr. Healy indicated that if the Commission so desires, the applicant would be agreeable to a condition requiring that Hoffman comply with such regulations.

Mr. Hoffman assured the Commission that he would not store any such materials in the area that is cross-hatched on the plans.

Mr. Nerney cautioned the Commission not to be confused with the multiple-party aspect

of the subject application, but rather to look at the application from the perspective of Section 29-10.A (Special Permit Requirements and Procedures) and to apply the standards/general criteria contained therein. He noted that that there are additional specific criteria that better/further define the requirements of such an application (e.g. setbacks, parking, landscaping, etc.) and it is important to carefully consider the submitted plans in that regard as well.

Ms. White referenced Section 29-6.B.4 of zoning regulations (Permitted Accessory Uses in the GB District), which discusses outdoor storage and merchandise. She noted staff's interpretation that the proposed materials are not really merchandise as referenced in the aforementioned Section, and thus don't seem to fall into that category.

There being no further comments from the Commission or the public, at 8:10 P.M. the Public Hearing was closed.

REGULAR MEETING

A. Mr. Hulse called the Regular Meeting to order at 8:10 P.M., seated members Bufano, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. February 24, 2014 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Ms. Poundstone, and carried (7-0) to approve the minutes of February 24, 2014, as amended to reflect Mr. Shiue abstaining from the vote on minutes of February 10, 2014.

C. ACCEPTANCE OF NEW APPLICATIONS

1. SDP, Fairfield Chemical Carriers, 21 River Road, Alternative Signage

The Commission accepted the application and scheduled discussion for later this evening.

2. REG#14344, Amend Section 29-5.A.3 of zoning regulations to permit charitable organizations as a Special Permit use in Single-Family Residential Districts

The Commission accepted the application and scheduled a Public Hearing for March 24,

2014.

D. SITE DEVELOPMENT PLAN REVIEW

1. SDP, Fairfield Chemical Carriers, 21 River Road, Alternative Signage

Present was Michele Ruscoe, on behalf of Fairfield Chemical Carriers, Inc.

Ms. Ruscoe referenced a proposed building-mounted sign for Fairfield Chemical Carriers, noting that their business clientele are currently having difficulty locating the business.

Mr. Nerney explained further that the proposed sign location is on the back side of 21 River Road. He referenced two possible signage configurations proposed by the applicant, noting that the Village District Consultant Committee (which oversees design considerations for Wilton Center) preferred the first option which spaces the “Fairfield Chemical Carriers” sign and a possible future tenant sign (“Mohican Financial Management, LLC”) equally between the current “GAP” and “Toluna” signs. He noted for the record that alternative signage plans are sometimes amended and, in those instances, the Town generally looks for consistency of the new signage with what has already been established.

It was the general consensus of the Commission that the proposed signage was a reasonable proposal/amendment to the alternative signage plan currently in place on the site.

Draft resolution of approval #0314-1Z was distributed and reviewed by the Commission.

A modification was made to the Draft resolution, per a suggestion from Mr. Nabulsi, to clearly indicate a finding on the part of the Commission that the application is consistent with the intent of the alternative signage program pursuant to Section 29-8.A.8 of zoning regulations.

MOTION was made by Mr. Nabulsi, seconded by Ms. Knapp, and carried unanimously (7-0) to adopt as amended Resolution **#0314-1Z** for an SDP amendment to an **Alternative Signage Program** at 21 River Road, effective March 13, 2014.

WHEREAS, the Wilton Planning and Zoning Commission has received an application from Fairfield Chemical Carriers Inc., for an amendment to an alternative signage program associated with an existing shopping center, located at 21 (15-21) River Road; in a Wilton Center District (WC), Assessors Map #73, Lot# 25-1, 12.198 acres; owned by Wilton Campus 1691, LLC and shown on the plans entitled:

Location of Proposed Sign for Fairfield Chemical Carriers - Prepared for Fairfield Chemical

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Carriers, received March 5, 2014, no scale noted.

Pre-sign Installation- Prepared for Fairfield Chemical Carriers, received March 5, 2014, no scale noted.

Post-sign Installation- Prepared for Fairfield Chemical Carriers, received March 5, 2014, no scale noted.

Total Square Footage- Prepared for Fairfield Chemical Carriers, received March 5, 2014, no scale noted.

Proposed locations for third tenant's sign- Prepared for Fairfield Chemical Carriers, received March 5, 2014, no scale noted.

Improvement Location Survey - Prepared for Wilton Campus Properties, LLC, Prepared by Robert Liddel, Jr., surveyor, dated February 11, 2000, at a scale of 1"=60'.

ALTA/ACSM Land Title Survey - Prepared for Wilton River Park Project, Prepared by Bock & Clark's National Surveyors Network, title surveyors, dated April 21, 2012, at a scale of 1"=60', sheet #2 of 2.

WHEREAS, the Wilton Planning and Zoning Commission finds the application to be consistent with the intent of the alternative signage regulations as such signage is architecturally consistent and in keeping with existing signage at 21 River Road; and

WHEREAS, the Wilton Village District Consultant Committee has reviewed applicable plans and has provided the Commission with communications pertaining to its review and such information has been taken into consideration by the Commission; and

WHEREAS, the Wilton Planning and Zoning Commission reviewed plans and documents pertaining to wall signage in conjunction with a business tenant located at 21 River Road; and

WHEREAS, the Wilton Planning and Zoning Commission has determined that the application is in substantial compliance with the Wilton Zoning Regulations;

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** the amendment to the alternative signage program, located at 21 (15-21) River Road, effective March 13, 2014 and subject to 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 Plan shall be completed within five years of the effective date of this resolution. This five-year period shall expire on March 13, 2019.
 3. The approved sign shall be designed and erected in accordance with the aforementioned plans, as shown on the signage plan as follows:
 - a. The proposed façade/wall sign, shall be consistent with the signage represented on the submitted plans and shall not differ with respect to size, color, design or appearance. Said sign shall be located in the area as shown on the submitted signage plans. The combined area and location of the individual pin-letter sign is as follows:
 1. 17.925 square feet. Sign shall not exceed 87.5”x 29.5”.
 2. The sign shall identify “Fairfield Chemical Carriers” and shall be located on the rear building elevation between the existing signs identifying GAP and Toluna. Spacing shall be provided between the proposed Fairfield Chemical Carrier and the GAP sign so as to allow future signage for a fourth building tenant.
 4. All signage approved under the prior alternative signage program for 5, 11, 15 and 21 River Road stated in Resolution #1101-7Z and in Resolution #1012-6Z, shall remain in effect.
 5. The approved sign shall be non-illuminated.

Submittal of revised plans and application prior to the issuance of a zoning permit:

6. 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. 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. "In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Sign Plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on March 10, 2019."
 - b. "For conditions of approval for Sign Plan, see **Resolution #0314-1Z.**"

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**

The Commission briefly reviewed/discussed the application.

Mr. Nabulsi felt that the applicant is within his right to build the site plan as proposed. He was not convinced that the difficulties cited by the opposing neighbor justify a denial or a re-drawing of the proposed plans, noting that he was not leaning in the direction of asking the applicant to move the proposed fence.

Ms. Knapp concurred, noting that all issues seem to have been addressed by the appropriate Town agencies/departments. She, too, did not feel it necessary to require relocation of the proposed fence.

All other Commissioners were also in agreement. Staff was requested to prepare a draft resolution of approval for vote at the next meeting.

Mr. Nabulsi noted that the resolution will need to include a number of conditions and, therefore, it would be helpful if the draft resolution were included in the P&Z packages ahead of the next meeting to give Commissioners some lead time for review.

F. COMMUNICATIONS

- 1. Fairfield County Bank, 190 Old Ridgefield Road, Discussion pertaining to drive-in facilities at banks and financial institutions in Wilton Center District**

Present were J. Casey Healy, attorney; and Carol Johnson, Vice-President, Fairfield County Bank.

Mr. Healy stated that Fairfield County Bank would like to install a second drive-in facility at its 190 Old Ridgefield Road location in order to relocate its ATM to the existing island that is located to the west of the drive-in-teller's lane. He explained that such a facility is allowed (in the singular) in Wilton Center (WC) district, whereas drive-thru facilities (in the plural) are currently permitted in both the General Business (GB) and Design Retail Business (DRB) districts.

He briefly reviewed a history of drive-in facilities at banks/financial institutions in the Wilton Center District (WC), noting that 1) prior to March, 1994 there were no

limitations on the number of drive-in facilities; 2) in March, 1986 the Commission approved two drive-in facilities for The Wilton Bank (now BankWell) at 47 Old Ridgefield Road; 3) between March, 1994 and April, 1997, drive-in facilities for banks/financial institutions in WC were prohibited; 4) effective April 28, 1997 regulations were amended to allow a drive-in facility for banks/financial institutions in WC. He explained that this regulation change was as a result of then-Ridgefield Bank's application (now Fairfield County Bank) for a drive-in facility, noting that the bank had requested only one such facility at that time.

Mr. Healy explained further that concern for safety is a key component of the applicant's desire to move the ATM to the existing island since customers using the ATM are required to exit their vehicles and, when done, must exit from the ATM directly into the drive-in lane to return to their vehicles. As a result, this oftentimes creates a safety hazard since neither patron (the drive-in lane customer or the ATM user) is expecting to see the other. He noted that the bank has also received complaints regarding the location of the ATM from customers with young children who must leave their vehicles in order to access the ATM.

Mr. Healy concluded by noting that it would be safer all around for the ATM to have its own dedicated lane and thus the reason for the applicant's request for guidance from the Commission this evening.

Mr. Nerney speculated as to whether the application could be dealt with as a site plan matter, with Village District Consultant Committee oversight as required, inasmuch as the drive-in lane is already in existence. In that regard, Mr. Healy noted that the Planning and Zoning Commission did approve both drive-through lanes originally and only minor modifications were since made to the site, noting that it would not be a complicated application.

Mr. Nabulsi felt that the regulations are clearly written so as to permit only one such drive-thru facility in the WC zone and he did not wish to be tripping over the current language of the regulations. He also felt that it could be beneficial to have a hearing on the matter so as to address whether there should be some restriction on the number of such facilities permitted. Overall, he felt it would be worthwhile for the Commission to have a discussion on the matter.

It was the general consensus of the Commission that the applicant should come in with a proposed regulation change to address this issue.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

Mr. Nabulsi stated that he would like to see the Commission revisit some of the specific action items set forth in the 2010 Plan of Conservation and Development rewrite. He suggested that the Commission might be well-served to place this topic on one of its upcoming agendas, as time permits.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Ms. Poundstone, and carried unanimously (7-0) to adjourn at approximately 8:52 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary