

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

WILTON PLANNING & ZONING COMMISSION MINUTES JULY 13, 2015 REGULAR MEETING

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

ABSENT:

ALSO

PRESENT: Robert Nerney, Town Planner; Daphne White, Assistant Town Planner; Lorraine Russo, Recording Secretary; Pat Sullivan, Town Counsel; Bruce Likely, Chairman, Board of Education; members of the press; and interested residents.

PUBLIC HEARINGS

- 1. SP#403, Westport Day School, 372 Danbury Road, School for special needs students pursuant to Section 29-6.B.3.s of zoning regulations**

Mr. Hulse called the Public Hearing to order at 7:15 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Poundstone, and Shiue, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp referenced a letter dated July 8, 2015 from J. Casey Healy to Planning and Zoning Commission requesting that the application be withdrawn.

The application was withdrawn.

2. SP#404, Wilton Youth Football, Inc., Middlebrook School, 131 School Road, renovation of existing grass field to artificial turf

Mr. Hulse called the Public Hearing to order at approximately 7:16 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Poundstone, and Shiue, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the application was continued from a previous date.

Ms. Knapp referenced into the record a large number of correspondences both for and against the application, noting that all were available for public inspection in the office of the Planning and Zoning Department. She also referenced a letter dated July 13, 2015 from Attorney Paul A. Sobel to Planning and Zoning Commission, with attachments.

Mr. Nabulsi arrived and was seated at approximately 7:17 P.M.

Present was J. Casey Healy, attorney on behalf of the applicant.

Mr. Healy submitted a response package dated July 13, 2015 into the record. He summarized the applicant's responses to comments made/questions raised at the last public hearing, including additional information regarding maintenance procedures for the artificial turf field, costs of construction/maintenance of the turf field compared with a grass field, and documentation concerning studies confirming no elevated health/cancer risks associated with artificial turf.

Mr. Wong arrived and was seated at approximately 7:21 P.M.

Mr. Nabulsi asked whether the applicant had given any further thought to the legal issue of standing which was raised by the opposing attorney.

Mr. Healy responded that Wilton Youth Football (the applicant) was authorized by the Board of Selectmen to submit the subject application, referencing a letter signed by First Selectman Bill Brennan that was submitted with the application.

In response to other questions from Mr. Nabulsi, Mr. Healy confirmed that the application does not include any limitations/restrictions as to which sports groups will be able to use the turf field or when such groups will be permitted to play/practice on the field, although he referenced the Commission's authority to impose limitations in that regard as part of its review/approval process. Regarding the issue of padding of walls, Mr. Healy noted that the applicant's consultant, Barry Blades, was currently out of state but would be able to provide additional details on that matter at the next meeting.

Ms. Knapp referenced the anticipated \$250 annual operating expenses for a turf field, as

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noted in point #8 of the applicant's response package, noting that it seemed rather low when compared to the maintenance requirements as noted in #6 of the same package. Mr. Healy explained that the numbers quoted in the package were taken from a Parks and Recreation Report dated 2012, noting that the applicant could request an update to those numbers if the Commission so desires. He noted further his understanding that the Town already has the necessary equipment to conduct such maintenance, although he indicated that he would confirm same for the next meeting.

Mr. Nabulsi stated that he would like to have a sense of what the anticipated light spillage would be relative to the surrounding properties and he asked whether the applicant submitted a lighting illumination/photometric plan. Mr. Healy stated that they had not submitted such a plan. He referenced the applicant's response letter indicating that they would reach out and try to locate that information, but he stated that so far they have not.

Mr. Hulse asked if anyone in the audience wished to speak for or against the application. It was determined, after consultation with Town Counsel Pat Sullivan, present in the audience, that the Commission would first hear comments in favor, followed by comments opposed.

Anthony LoFrisko, 33 Cider Mill Place, present in the audience and opposed to the application, stated that he reserved his right to cross examine.

Bruce Likly stated that he wished to speak both as Chairman of the Board of Education and as a parent/taxpayer. He stated that the BOE has reviewed the proposal and feels that it would be a positive addition for the Town, its students and schools, noting further that teachers and principals have expressed support for the proposed field both from an athletic perspective and for students' gym class support. He explained that it would also decrease wear and tear on the Town's existing fields, concluding that the BOE strongly favors approval of the subject application.

As a parent, Mr. Likly stated that the Town's fields are inferior to those of surrounding Towns, putting Wilton's students at both a safety risk and an athletic disadvantage. He strongly requested approval of the application as a parent and as a taxpayer.

Frank Simone, 69 Charter Oak Drive, referenced a recent Wilton Bulletin article and asked for confirmation regarding some references in the article to the Inland Wetlands Commission (IWC) and the Board of Selectmen (BOS). Mr. Nerney confirmed that the BOS authorized the applicant to submit the subject application and that the IWC has already issued a permit for the field.

Karin Hyzy, 199 Skunk Lane, stated that she has 4 children and has been in Town for 10 years. She stated that this is not about trying to harm our children but rather it's about providing them with the best possible playing environment. She referenced beautiful new

turf fields in surrounding Towns. She implored the Commission to just “say yes”.

James Andersen, 5 Forge Road, stated that this is a safety issue for the Town, noting that the field is always strewn with rocks and he, as a coach, is always removing them for the safety of the players. He stated that he is strongly in favor of approving the proposed turf field.

Sara Curtis, 290 Cannon Road, stated that she has considered all the information presented and has done extensive personal research on studies completed both in the United States and globally, noting that for every study indicating no issue or health risk, another study can be found indicating the opposite. It was her opinion that, in the end, there are way too many health concerns and incontrovertible evidence that turf fields pose significant health risks. She also referenced the issue of sports injuries, noting that such fields have been banned from Women’s FIFA games. She summarized by stating that too many questions remain to be answered on the issue, including the long-term financial aspects of installing such a field.

Elizabeth Craig, 46 Cheese Spring Road, expressed disappointment that the application did not include a proposal for a non-toxic in-fill mix. She referenced a recent medical report out of the UConn agricultural station that raised medical concerns in connection with such fields. She felt that this is a legitimate health concern that needs to be addressed for the sake of our middle school children’s health.

Lianne G. Acosta-Rue, 48 Briardale Place, stated that we should provide the best for our children, noting that it would be disadvantageous for them if this application were denied. She acknowledged that these issues are always controversial but she noted that other Towns are moving ahead of Wilton. She stated that the Town needs good facilities if it wants to attract families here.

Mr. LoFrisco stated that he had some questions and wished to cross-examine. Town Counsel Sullivan explained that extensive, courtroom-style cross-examination would not be appropriate, noting further that such questioning is usually not effective because people are not under oath in this type of venue. However, she stated that the Commission would not want to create an appellate issue going forward, thus noting that some cross-examination, if circumscribed and done briefly, should be allowed.

Mr. LoFrisco distributed a copy of the application page. He spoke to the issue of standing, questioning whether the applicant, Wilton Youth Football, has a legal interest in the property. Mr. Healy said it did not, but he referenced a submitted deed attesting to the Town’s acquisition of title to the land in question as well as a submitted authorization from the Board of Selectmen, signed by First Selectman Bill Brennan, authorizing the applicant to proceed with the application.

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Mr. LoFrisco asked what actions the applicant has undertaken to address the issue of reimbursement to the Town if the field in question has to be replaced in the future, referencing a bond as an example. Mr. Healy stated that nothing has been proposed at this point.

Mr. LoFrisco asked Mr. Likly whether he had spoken to Wilton's Director of Health about turf-related health issues and, if not, whether anything had prevented him from so doing. Mr. Likly answered no on both counts, noting that his role as Chairman of the BOE is to take input/review documentation from the Superintendent of Schools and the Athletic Director and at no time was there ever any cause to raise concerns because of the information put before the BOE with respect to the subject application.

Paul A. Sobel, attorney for William and Eliot Patty, 174 Ridgefield Road, distributed handouts to the Commission, including "Information Re Outdoor Lighting Zoning Regulations Violations - Middlebrook School", with cover letter dated July 13, 2015. He reviewed the submitted documents and photos, calling particular attention to insufficiencies in the submitted application with respect to showing all existing site conditions and proposed improvements, including lighting structures for the field/parking lot, and site coverage calculations.

He referenced light poles with fixtures having little or no shielding in the horizontal direction that point toward the Patty property. He cited issues with number of light poles installed versus number originally approved for the site, including number of fixtures approved to be on a single pole versus number actually installed. He stated that required timers restricting lighting to an 8:30 PM shut-off time are not being utilized on the property. He stated that the Commission should consider issues of safety, referring in particular to previous Town hearings during which existing lighting was claimed to be unsafe and in violation of existing lighting regulations.

Mr. Sobel referenced "Dark Sky Society" guidelines, noting that the types of fixtures installed in the parking lot are non-shielded. He addressed the issue of foot-candles, noting that he hasn't seen any data provided as to how foot-candles should be measured, questioning in particular how "average" foot-candles are calculated when a small portion of a very large lot is illuminated. He stated that it should not be the job of the opponent to determine whether zoning regulations are being violated.

He again referenced the issue of lack of standing, noting that no one with a legal interest in the Town property is before the Commission this evening, noting further that Wilton Youth Football has no right to control usage of the field.

He stated that he reserved the right to look at and respond to any additional information submitted by Mr. Healy, including whether any new information is so new and extensive as to require a new application.

Mr. Nabulsi asked if Mr. Sobel's client would be satisfied if the application were to be fully compliant with respect to lighting. Mr. Sobel stated that his client also has concerns about drainage.

Referencing the issue of lighting again, he noted that the applicant's current proposal to move some of the light poles further back will probably require aiming the light fixtures even more horizontally than currently, resulting in even more glare to his client's property.

Mr. Fiteni requested that the applicant provide more information on non-toxic fill options that might be available, including cost data.

In response to a question from Mr. Hulse as to whether Mr. Sobel's client would be satisfied should the lighting issues be resolved, Will Patty, present in the audience, stated that the applicant has actively avoided providing information that he and his attorney have requested and the Commission has not asked that the applicant provide such information. He explained further that his request is to have lighting regulations of the Town observed, noting that he will continue to press on that issue.

Mr. Wong observed that when a person joins a sport league and chooses to play on a field, that person assumes any associated risks, but he questioned whether a student who is required to take a gym class on the same field also has to assume the same risk, noting that this is likely a question for the BOE.

Matt Zeyher, Catalpa Road, stated that there is a greater cancer risk from air pollution than from playing on artificial turf. He felt that this is essentially filibustering on the part of the opponents, and a waste of time and money, noting that all questions/issues have already been addressed by the applicant. He stated that this Town is in competition with other Towns for people of quality and stature and this Town is losing the battle. He cited serious injuries that have occurred on grass fields after rain, noting that the turf would be much safer. He noted that heat stroke happens, and is not necessarily a result of artificial turf.

Mr. LoFrisco introduced Dr. David Brown. He cited Dr. Brown's educational and professional credentials including, among others, past positions as Chief of Environmental Epidemiology and Occupational Health in Connecticut and Associate Professor of Toxicology at Northeastern College of Pharmacy.

Dr. Brown referenced studies that have been conducted which have found carcinogens in the rubber material used in artificial turf as well as incidences of cancer among athletes, noting that because the studies were unable to conclusively prove causality, the turf material was determined to be safe. He cautioned that there is no barrier between the

athletes and the product itself so children are being directly exposed to the material. He cited reports from California where higher than expected rates of cancer, specifically 42 cases of lymphoma in soccer goalies, were found where 18 would have been expected in such a population sample.

Dr. Brown also cited limitations in studies where risk was determined to be de minimis based upon a sampling of only 200 milligrams of the material. He suggested asking oneself whether that is sufficient data to justify exposing one's child to the product. He stated that people should go back and take another look at some of the studies.

When questioned by Mr. Hulse as to whether he, as a scientist, feels the turf causes cancer, Dr. Brown stated that he, personally, has reason to be suspicious because the data hasn't been collected properly nor has it been analyzed properly. He concluded by stating that not enough information is currently available to justify exposing children to the substance.

In response to a question from Ms. Knapp, Dr. Brown stated that carcinogens may be present in a grass field but not at the level that is being seen with turf. He noted further that children have been playing on grass fields for years and there is no troubling data coming out of Washington as they are now seeing in connection with turf fields.

Mr. Wong asked Dr. Brown if, in his opinion, rubber should be prohibited from being used. Dr. Brown responded by saying that if it is used, children should be provided with the opportunity to change their clothes and wash afterwards immediately because they will be carrying those toxins with them. He cited issues with goalies in particular since they dive onto the field and get the toxins into their mouths and swallow it. Mr. Wong asked if Dr. Brown feels that this material should be prohibited even if children sign up to play on the fields and are thus assuming any inherent risk. Dr. Brown said yes, unless more data can be obtained. He noted again that not enough testing has been done to-date to satisfactorily answer the question of safety.

Mr. Nerney asked if there are industry alternatives available. Dr. Brown stated that non-rubber materials are available but he cautioned that those materials have not been adequately tested either, although he stated that he would definitely not choose rubber if he had to make a choice.

Dr. Brown provided copies of his materials into the record, including "A Parent's Guide – How to evaluate a Peer reviewed study for children's health and safety".

Remi Hahn, 9 Powder Horn Hill, advised the Commission for the record that Cider Mill students are already participating in gym classes on a turf field.

Jennifer Kendra, 112 Cedar Road, noted that the Town would be benefiting from private

funding for the proposed field. She expressed frustration that a limited number of voices were, in her opinion, wasting the Town's time for their own personal interests. She specifically referenced the Pattys who she noted purchased their property after the lights were already in place on the subject site. She stated that it would be wonderful if Mr. LoFrisco's time and attention would go into funding the research instead.

Dave Clune, 87 Ridgefield Road, stated that he was speaking for himself and his wife, noting that they put their children's safety into the hands of the school every day and they trust the school's judgment. He felt that the Town should take advantage of this gift and not lose this opportunity, noting that it will benefit everyone, not just the children. He asked that those in support please raise their hands. [Many persons in the audience raised their hands.]

Matt Zeyher, Catalpa Road, read from a State of Connecticut study dated January 20, 2015, indicating, in summary, that Federal and State authorities have taken seriously the concern that artificial turf fields may present a health risk, but that studies conducted in CT and elsewhere have shown a very low exposure potential, less than from typical outdoor sources of air pollution, and that current reports of soccer players with cancer do not constitute correlation or causality and thus lack scientific support. He concluded by noting the study's determination that the CTDPH's previous conclusion that outdoor artificial turf fields do not represent an elevated health risk remains unchanged.

Mr. LoFrisco asked for permission to introduce another presenter. He introduced Patty Wood. She reviewed her credentials, including her position as the Founder and Executive Director of Grass Roots Environmental Education, whose mission is to educate the public about the links between common environmental exposures and human health, and as Visiting Scholar at Adelphi University, among others. She cited, in particular, the Resource Conservation and Recovery Act of 1976 (RCRA) governing disposal of solid and hazardous waste, including used rubber tires, noting the RCRA's determination that products recycled into a usable consumer product are automatically exempted from RCRA requirements even if the end product is more toxic than other similar products on the market, and thus synthetic turf manufactured from rubber infill or recycled playground surfaces are not monitored. She noted further that the Consumer Products Safety Commission and the EPA have just recently (over the past couple of months) removed their own safety assurances for artificial turf because of the accumulating data.

Referencing the aforementioned heat issues with artificial turf, Ms. Wood noted that the amount of light and electromagnetic radiation has a greater impact on the heating of the surface than the air temperature, with the hottest turf temperature recorded at 200 degrees on a 98-degree day. She cited issues which soccer players in Canada had experienced, including melting of the soles of their shoes and having to tape their feet inside their shoes to prevent sole blisters and burns. She cited additional issues including dehydration, heat stroke, etc. and the inability to cool down the fields for more than 20

minutes even after hosing them down, all of which data she stated is not disputed by the industry. She mentioned body fluid exposure (e.g. blood, saliva, sweat, vomit, etc.) for which there is greater contamination potential on a turf field as compared with a natural grass field that has soil microbes to help break down such pathogens. She stated that turf fields need to be disinfected after every game to insure safety, but she noted that this is typically not done. She referenced injuries that are problematic, some of which are unique to the artificial turf surface.

Ms. Wood also cited concerns with vandalism (i.e. turf fire hazards due to the flammability of rubber and resulting toxins that are released into the air). She noted that NYC has announced that their 100+ artificial turf fields will not be replaced with crumb rubber going forward and instead other materials such as cork, coconut hulls, etc. will be used. She stated that the costs associated with artificial turf fields are much greater than with natural turf fields. She concluded by saying that although she and her whole family are athletes, she would not allow her children (if they were youngsters today) to play on an artificial turf field.

In response to questions from Ms. Knapp and Mr. Nabulsi, respectively, as to whether the applicant has standing and whether Wilton Youth Football has the authority to agree to conditions that might be included in a resolution involving use of the field beyond just Wilton Youth Football, Attorney Sullivan stated that she would look into both matters before the next meeting. In response to Mr. Nabulsi's question in particular, she noted that if a tenant comes in with an application, with owner authorization, then the tenant can make an agreement which will be binding on the owner.

There being no further comments from the Commission or the public, at approximately 9:15 P.M. the Public Hearing was continued until July 27, 2015.

REGULAR MEETING

- A.** Mr. Hulse called the Regular Meeting to order at 9:15 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. June 22, 2015 – Regular Meeting

MOTION was made by Mr. Nabulsi, seconded by Ms. Poundstone, and carried (7-0-2) to approve the minutes of June 22, 2015 as amended. Commissioners Fiteni and Hulse abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

- 1. SP#406, Westport Day School, 372 Danbury Road, To allow a school to operate in a portion of the 1st floor of existing building pursuant to Section 29-6.B.3.s of zoning regulations**

It was the consensus of the Commission to schedule a Public Hearing for Tuesday, September 15, 2015.

E. PENDING APPLICATIONS

- 1. SP#403, Westport Day School, 372 Danbury Road, School for special needs students pursuant to Section 29-6.B.3.s of zoning regulations**

Withdrawn at the request of the applicant.

- 2. SP#404, Wilton Youth Football, Inc., Middlebrook School, 131 School Road, renovation of existing grass field to artificial turf**

Tabled until July 27, 2015.

Mr. Nerney advised the Commission that **SUB#913, Wheeler**, originally scheduled for a Public Hearing on September 15, 2015 will need to be rescheduled for Monday, July 27, 2015 due to the applicant's unwillingness to grant an extension of the scheduling deadline.

Mr. Wong referenced a recent U.S. Supreme Court decision concerning signage, citing the likelihood that our signage regulations will have to be rewritten in light of said decision. He asked whether the Commission would be scheduling a discussion of this matter in the near future. Mr. Nerney felt that the Commission/staff all need some time to sit down and study the decision to properly understand it. Mr. Wong referenced in particular the upcoming Lindquist public hearing on Danbury Road. Although he noted that there was no indication in the plans about signage, he felt that it could be problematic for the Commission in determining the applicability of its signage regulations. Attorney Sullivan acknowledged that was a fair point, but she felt that the Commission should address this issue in a comprehensive way going forward. Mr. Hulse concurred, noting that the Commission/staff should understand clearly what

the decision means and then discuss it as a group.

F. COMMUNICATIONS

1. MR#142, Implementation of Main Street Grant for purposes of restoring Wilton Center sidewalks

Mr. Nerney referenced posted plans for the restoration of sidewalks in Wilton Center. He explained that the Main Street Grant awarded the Town \$425K, with the Town contributing \$75K for use of Public Works personnel. He stated that the Town hired an international civil engineering firm, Langan, to develop a sidewalk/crosswalk proposal utilizing a brick theme consistent with what is currently in the movie and library areas of the Center. He explained that the plan will also serve to calm traffic and improve ADA features in the Center, noting that it is a great opportunity for the Town.

Mr. Fiteni questioned the necessity of bollards which are proposed as part of the plan and which he felt would be out of place in downtown Wilton. Mr. Nerney stated that the decision was made to use them sparingly, noting further that the Village District Design Advisory Committee was also involved in the plan review process.

MOTION was made by Mr. Nabulsi, seconded by Ms. Knapp, and carried unanimously (9-0) to respond favorably to the First Selectman on the subject mandatory referral MR#142, noting that it would have no long-term deleterious impacts on the Town's planning initiatives.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. REG#15348, J. Casey Healy, c/o Gregory and Adams, P.C., Amend Section 29-7.E.6 of zoning regulations regarding area/bulk requirements for industrial zones [P.H. Monday, July 27, 2015]**
- 2. SP#405, Lindquist, 658 Danbury Road, To allow an automotive sales and service facility pursuant to Section 29-6.B.3.o of zoning regulations [P.H. Monday, July 27, 2015]**

- 3. SUB#913, Wheeler, 19 Valeview Road, 2-lot subdivision
[P.H. Monday, July 27, 2015]**

J. ADJOURNMENT

MOTION was made by Ms. Poundstone, seconded by Ms. Knapp, and carried unanimously (9-0) to adjourn at approximately 9:45 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary