

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

## WILTON PLANNING & ZONING COMMISSION MINUTES SEPTEMBER 28, 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; members of the press; and interested residents.

### REGULAR MEETING

**A.** Mr. Hulse called the Regular Meeting to order at 7:15 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

### **B. APPROVAL OF MINUTES**

#### **1. September 15, 2015 – Regular Meeting**

**MOTION** was made by Ms. Knapp, seconded by Ms. Poundstone and carried (8-0) to approve the minutes of September 15, 2015 as drafted.

### **C. SITE DEVELOPMENT PLAN REVIEW**

**D. ACCEPTANCE OF NEW APPLICATIONS**

**E. PENDING APPLICATIONS**

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

Mr. Hulse opened the discussion, which was continued from the previous meeting, indicating his support for the application. He noted that Planning and Zoning is a land use commission and therefore must review applications from that perspective, determining whether proposed site modifications are permissible, satisfy the regulations and make sense from a land use perspective, which he believed this application does. He felt that the conversation had gotten somewhat off course at times, e.g. pricing/financial considerations which are not under the purview of this Board.

Ms. Bufano concurred, noting her major concern is lighting. She felt that if something could be inserted in the resolution addressing that issue in particular, she would be satisfied.

Mr. Wong had mixed feelings about the application, noting specific concerns pertaining to up-lighting and glare, which are not permitted by zoning regulations, as well as difficulties proving safety with respect to the proposed turf. He questioned what exactly is involved with Parks and Recreation maintaining the field, referencing in particular chemicals that might be poured on the field to maintain it as well as impacts on drainage. He expressed concern that the Town would be assuming all of those risks and thus could be held liable.

Mr. Nabulsi arrived and was seated at approximately 7:24 P.M. He noted for the record that he had listened to the entire tape of the previous meeting.

Mr. Shiue expressed concern with health issues, primarily long-term effects, although he stated that he was also mindful of risks of injury on natural grass fields. Cited the large quantity of literature/conclusions that all seemed to conflict with no definitive answers provided, he indicated that he was inclined to approve.

Mr. Comiskey stated that he had many doubts/concerns. He felt that the maintenance issue was not adequately addressed. He stated that this field would be more heavily used than the other turf fields in Town, noting that the Commission must remain focused solely on the application before it. He noted that if the same group that is contributing towards the subject application would put the same amount of money towards restoring the existing field, conditions on the field would be improved significantly.

Mr. Hulse cited the Boards of Selectmen and Education's support of the turf field and his belief that they have the kids' best interests involved. He stated that children are already playing on turf fields in Town and they play on them wherever they travel, noting in particular that Darien is putting in 4 new turf fields. He stated that the Town wants to promote private/public partnerships of this type and he expressed concern that another large corporation in Town might hesitate to sponsor another project of this type in the future based on how this application has been received.

Ms. Poundstone had mixed feelings about the application, noting her concern and surprise that the Commission never saw an actual sample of the turf and she stated that she was concerned to know more about the lighting situation. She stated that the Commission must be careful to adhere to the land use aspects of the application, noting that at this time she was not certain whether she would support the application.

Ms. Knapp expressed concern that the application was not in conformance with the Town's lighting regulations. She cited in particular Section 29-9.E.2 of the regulations which requires that lighting be directed down; that light intensity shall be an average of 2.5 foot-candles at ground level; and that glare shall not be visible beyond the boundaries of the property. She noted that some of the proposed lighting is directed upward; that there was no information as to actual light intensity at ground level and Mr. Dyjak admitted that other light sources were not factored into the foot-candle calculation; and one of the properties experiencing glare from the subject site is located down-slope of the subject site, which was not addressed by the applicant; all of which she noted does not comport with what the Town's zoning regulations require.

Ms. Knapp noted further that she would appreciate clarification from Town Counsel as to the issue of Town liability when entities other than the Wilton Football League, e.g. the general public, will be utilizing the field. She also expressed concern that no other information was submitted regarding the availability of safer forms of infill which the Commission had requested.

Mr. Fiteni felt that proposed lighting clearly violates two major aspects of the Town's zoning regulations and he felt that the applicant's last-minute introduction of an entirely new lighting scheme did not allow for proper notification/dissemination to the public. He shared the concern that the Commission did not receive information on alternative turf materials, which he requested twice. With respect to the safety aspect of the turf, he felt that there is a lot of conflicting information, citing in particular that New York State high schools are no longer using artificial turf but are instead successfully managing natural turf fields. He stated that he could not approve the application as proposed, citing again the lighting nonconformity with regulations.

Mr. Nabulsi felt that everyone involved did an excellent job developing a full record on this application, which he stated has two distinct components, i.e. the proposed artificial

turf and the new lighting. He noted that the Commission does not have the authority to move an application in a direction that the applicant does not want to pursue and as long as an application meets the required land use criteria, then it is the responsibility of the Commission to approve it. In that regard he felt that the applicant had met the relevant land use criteria with respect to the proposed turf and he would vote in favor of that aspect of the application.

Addressing the issue of lighting, he expressed concern with the glare factor in connection with the property that is down-slope of the property and the issue of computing average foot-candles at ground level, noting that he would have difficulty interpreting the lighting component of the application as being consistent with the regulations. He stated that if it were possible to approve the turf but decline the lighting, he would favor that option, noting that he would very much like to avoid having to go through the whole turf portion of any future application again. He also raised the possibility of perhaps approving the turf while just relocating the existing lights or perhaps just sliding in the turf with lights remaining as is, in which case the Commission would not have to address the question of whether the lights are safe or not (a concern raised by Ms. Knapp).

When questioned by Mr. Hulse as to the feasibility of such an option, Mr. Nerney was uncertain if any approval/denial of the application could be split as suggested, noting further that due to legal ramifications, since the application has been closed, the Commission could not ask the applicant any specific questions in that regard. He explained that the original application called for shifting the existing lights westward to align with the new turf field, noting that the issue of lighting was embedded into the original application. He advised the Commission that it has time if it wishes to continue the discussion again to the next meeting.

Ms. Poundstone was unsure as to whether it should be the responsibility of the Commission to redesign the playing field, noting that lighting is an integral component of the subject application.

Mr. Nabulsi questioned whether the applicant might possibly utilize temporary lighting if the turf field alone were approved until and if the applicant brought a lighting application before the Commission that met all lighting regulations.

Many questions were raised by various Commissioners as to how the term temporary would be defined, i.e. what the time frame would be to qualify as temporary, whether such lighting would have to be transported in and off the field and how often, questions of liability, whether it could be done via some condition of compliance within the resolution, etc.

Mr. Nabulsi clarified his comment, noting that he was not necessarily envisioning that temporary lighting would be a part of any resolution of approval, but rather that if lighting

were not approved, and only the turf portion of the application was approved, then perhaps the applicant would have to consider the option of temporary lighting until some other lighting that is compliant with the regulations is proposed.

Mr. Comiskey again expressed concerns with long-range health implications of the proposed turf, noting that although he appreciates the enthusiasm of people who want to install the turf, he was especially concerned about exposing children to something with which he had a strong degree of discomfort. Noting further that lighting is by its very nature subjective, he felt that models could have been made available to the Commission to demonstrate the proposed lighting effects. He felt that it is not the job of this Commission to remove the other two turf fields in town or to factor in/concern itself with other Towns' decisions, but rather it must evaluate the merits of the application before it at this time.

Mr. Wong again raised the issue of Town liability as it relates to public facilities versus private enterprises. He felt that the Commission has a right to have input when it involves a public aspect, especially with respect to safety issues.

Mr. Fiteni felt that health and safety are the jurisdiction of this Commission and there is justification for the Commission to be concerned with such matters. Using the recent automotive facility application as an example, he noted that the Commission asked questions (and was justified in so doing) about runoff, air quality, drainage, etc., and he noted that answers were provided by the applicant that addressed those concerns. He felt that issues of health and safety were not sufficiently addressed for both the lighting and the turf components of the subject application.

Ms. Poundstone referenced citations in a submitted Connecticut Department of Public Health study dated July, 2010, noting a number of old citations dating back to 1937, the 1960s, 1980s, etc. She questioned the relevancy of such studies/references to current-day materials and uses.

Mr. Wong felt the study was inconclusive at best, noting that it considered only air samples in a very limited fashion and did not consider contact implications of the rubber infill material.

Mr. Hulse noted that the federal government believes the product is safe and he emphasized again that the Commission must determine whether the application is compliant from a land use perspective.

In response to a question as to whether liability can be considered a land use issue, Mr. Nerney was unsure, noting that it is a difficult question.

Mr. Nabulsi felt that an argument could be made that the Town has already agreed to take

on that responsibility by virtue of its involvement in the subject application. He did not think it was the role of this Commission to second guess the Town in that regard.

Mr. Shiue noted for the record that, as a former medical researcher, old citations are not necessarily irrelevant.

Mr. Nerney was asked to check out the issue of Town liability with Town Counsel and whether it was appropriate for the Commission to consider the matter in its deliberations, in addition to the question of whether the Commission could approve the turf field but not the lighting as heretofore suggested.

Mr. Nerney indicated that he would talk to Town Counsel, noting that the Commission has time to render its decision.

Questions were raised as to whether the Commission should consider amending its lighting regulations with a specific eye towards keeping up with ever-changing lighting technology. It was determined that this may be something to consider going forward but not with specific reference to the subjection application. Mr. Nerney also confirmed, in response to another question, that the regulations would apply equally for permanent as well as for temporary lighting.

The discussion was continued until Tuesday, October 13, 2015.

**2. REG#15349, J. Casey Healy, c/o Gregory and Adams, P.C., Amend Section 29-7.E.6 regarding area/bulk requirements for industrial zones**

The Commission reviewed Draft resolution #0915-1REG.

**MOTION** was made by Ms. Poundstone, seconded by Ms. Knapp, and carried unanimously (9-0) to adopt as drafted Resolution #0915-1REG for **REG#15349**, effective October 1, 2015.

**WHEREAS**, the Wilton Planning and Zoning Commission accepted application #15349 for an amendment to Section 29-7.E.6. of the Zoning Regulations of the Town of Wilton pertaining to area and bulk requirements for industrial zones, within the Design Enterprise (DE-10 and DE-5) Districts of the Town of Wilton; and

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on September 15, 2015 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the proposed regulation amendment is consistent with the Plan of Conservation and Development in terms of supporting Wilton’s economic base, accommodating changing technology and business practices within the private sector and doing so in manner that does not compromise the health, safety or welfare of the Wilton community and its residents;

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission **APPROVES** amendment #15349 effective October 1, 2015, as follows:

Section 29-7.E. AREA AND BULK REQUIREMENTS FOR INDUSTRIAL ZONES

	<u>DE-10</u>	<u>DE-5</u>
6. Maximum Building Coverage (%):	25	25

- END RESOLUTION -

**3. REG#15349, 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**

As agreed, Mr. Healy, present in the audience, submitted into the record a letter of withdrawal in light of the approval of REG#15349.

**4. 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**

The Commission reviewed Draft resolution #0915-15P.

Mr. Nabulsi noted for the record that he planned to vote against the application. He referenced Section 29-8.C.4.c.2 of zoning regulations, noting that his interpretation did not agree with the applicant’s. He felt that the planting strip requirement for each double bay of parking applied independent of the other requirement for a landscaped island only if there are more than 18 contiguous parking spaces. He felt that the regulation as written did not contemplate what the applicant was proposing.

**MOTION** was made by Ms. Knapp, seconded by Mr. Hulse, and carried (8-1) to adopt as drafted Resolution #0915-15P for SP#405, effective October 1, 2015. Mr. Nabulsi opposed.

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**WHEREAS**, the Wilton Planning and Zoning Commission has received Special Permit application (**SP #405**) from Michael Lindquist to allow an automotive sales and service repair establishment including an area for on-site vehicle storage and display for property at 658 Danbury Road, located in a General Business (GB) District and a Single Family (R-1A) District; Assessor's Map #23, Lot #10, 2.387± acres; owned by Connecticut Light and Power Company (now known as Eversource), and shown on the plans entitled:

Zoning Location Survey, Prepared for Wilton Service Center, Inc., prepared by Douglas R. Faulds, surveyor, dated April 6, 2015, scale 1"=30', no sheet #.

Site Layout and Utility Plan, Prepared for Wilton Service Center, Inc., prepared by Holt W. McChord, engineer, dated May 20, 2015, last revised July 27, 2015, scale 1"=30', sheet #SE1.

Site Grading and Soil Erosion Control Plan, Prepared for Wilton Service Center, Inc., prepared by Holt W. McChord, engineer, dated May 20, 2015, last revised July 27, 2015, scale 1"=30', sheet #SE2.

Construction Notes and Details, Prepared for Wilton Service Center, Inc., prepared by Holt W. McChord, engineer, dated May 20, 2015, last revised July 27, 2015, scale as noted, sheet #DT1.

Septic System Notes and Details, Prepared for Wilton Service Center, Inc., prepared by Holt W. McChord, engineer, dated May 20, 2015, last revised July 27, 2015, scale as noted, sheet #DT2.

Truck Turning Movement Plan, Prepared for Wilton Auto and Tire Center, prepared by Tighe & Bond, engineers, dated July 27, 2015, scale 1"=30' (reduced plan size 11"x17"), sheet #C.01.

Landscape and Lighting Plan, Prepared for Wilton Service Center, Inc., prepared by Katherine E. Throckmorton, landscape architect, dated June 29, 2015, last revised July 27, 2015, scale 1"=20', sheet #LP.1.

Foot Candle Plan, Prepared for Wilton Service Center, Inc., prepared by Katherine E. Throckmorton, landscape architect, dated June 29, 2015, revised July 27, 2015, scale 1"=20', sheet #FC-1.

First Floor Plan, Proposed, Prepared for Wilton Auto & Tire Center, prepared by Nancy Anne Lovas, architect, dated May 18, 2015, scale 1/8"=1', sheet #A2.1.

Upper Level through First Floor, Proposed, Prepared for Wilton Auto & Tire Center, prepared by Nancy Anne Lovas, architect, dated May 18, 2015, scale 1/8"=1', sheet #A2.2.

Roof Plan, Proposed, Prepared for Wilton Auto & Tire Center, prepared by Nancy Anne Lovas, architect, dated May 18, 2015, scale 1/8"=1', sheet #A2.3.



Exterior Elevations, Proposed, Prepared for Wilton Auto & Tire Center, prepared by Nancy Anne Lovas, architect, dated May 18, 2015, scale 1/8"=1', sheet #A3.1.

Exterior Elevations, Proposed, Prepared for Wilton Auto & Tire Center, prepared by Nancy Anne Lovas, architect, dated May 18, 2015, scale 1/8"=1', sheet #A3.2.

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on July 27, 2015 and September 15, 2015 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the Zoning Board of Appeals approved a Certificate of Approval for the location of an automotive sales and service facility pursuant to Section 29-13.A.3 of the Zoning Regulations; and

**WHEREAS**, the Inland Wetland Agent has reviewed the application and finds the submitted plan substantially consistent with Inland Wetlands Commission approval of July 23, 2015; and

**WHEREAS**, the Planning and Zoning Commission has determined that the application is in substantial compliance with the Wilton Zoning Regulations including a finding that the parking arrangement is compliant with established policies;

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission **APPROVES** the Special Permit #405 to allow an automotive sales and service establishment including an on-site vehicle storage and display area for property at 658 Danbury Road, effective October 1, 2015 and is subject to the following conditions:

**GENERAL 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 United States Government. 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 Special Permit site plan shall be completed within five years of the effective date of this resolution. This five-year period shall expire on October 1, 2020.
3. The applicant shall file the Planning and Zoning special permit and the Zoning Board of Appeals location approval with the Wilton Land Records and shall provide evidence of such recordings to the Planning and Zoning Department staff prior to the issuance of a zoning permit.
4. The applicant shall revise submitted plans to depict the location of the floor drain tanks. Said tank shall be consistent with representations made to the Planning and Zoning

Commission and shall be subject to Planning and Zoning Department staff review and approval.

5. A bond estimate for site work shall be provided by the applicant to the Town Planner, which shall include, sedimentation and erosion controls and shall include a 10% contingency. The applicant shall furnish to the Town a bond with proper surety, in form and amount satisfactory to the Commission's land use counsel and Wilton's Town Planner, prior to the issuance of any zoning permit.
6. Exterior site lighting shall be limited to 1.6 foot candles.
7. All repair work shall be conducted within the enclosed building.
8. Any plant substitutions or changes from the approved landscape plan shall be subject to the review and approval by the Commission's staff.
9. The applicant's display and/or storage vehicles shall not be located on any planting beds or landscaped buffers. Storage and display of vehicles shall be limited to specified areas depicted on the approved site plan. There shall be no storage or display in other areas, including the parking of vehicles on planting beds or landscaped buffer areas.
10. All electric, telephone and other cable supplied services shall be installed underground.
11. Erosion control plans shall be strictly enforced. Public roads shall be swept clean of all dirt and debris at the end of each day.
12. There shall be no construction activities on the site on Sundays or major holidays. All construction related activities shall only be performed between 7:30 A.M. and 6:00 P.M. Monday through Friday and between 8:00 A.M. and 6:00 P.M. on Saturdays. This condition does not apply to interior finish work performed within a fully-enclosed building.
13. A copy of this resolution shall be given to the construction manager and shall be available on site during construction.
14. All signage shall comply with Section 29-8.A. of the Zoning Regulations.
15. Mechanical equipment and refuse containers shall be screened from view on all sides.

**SUBMITTAL OF REVISED PLANS AND APPLICATION:**

16. Three (3) 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 the issuance of 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 site plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on October 1, 2020."
  - b. "For conditions of approval for Special Permit #405, see Resolution #0915-15P."

**PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE:**

17. The applicant shall submit an as-built survey, which shall include building and site coverages, prior to the issuance of a zoning compliance certificate.
18. The applicant shall submit an as-built plan of the subsurface drainage and verify compliance with the approved Stormwater Management Plan, prior to receiving a zoning compliance certificate.
19. The applicant shall submit a photometric as-built lighting plan demonstrating compliance with the approved lighting plan.

- END RESOLUTION -

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

The Commission reviewed Draft resolution #0915-16P.

Mr. Wong expressed concerns regarding the safety of the intersection, which he noted is already extremely congested during dismissal time. After a brief discussion, it was the general consensus that the additional 25+ vehicles associated with the subject School would not impact the overall level of safety of that intersection.

MOTION was made by Ms. Poundstone, seconded by Mr. Fiteni, and carried (8-1) to adopt as amended Resolution #0915-16P for SP#406, effective October 1, 2015. Mr. Wong opposed.

**F. COMMUNICATIONS**

A short discussion ensued regarding signage, pursuant to a recent Supreme Court decision on the issue. In light of the lack of response/input from Town residents, the Chamber of Commerce, etc., which was solicited months ago by the Commission and staff, it was the general consensus that Mr. Nerney's thoughts/ideas on the issue would be welcome. Mr. Nerney also noted that the Commission might wish to wait for the American Planning Association's (APA) take on the topic and perhaps develop/modify signage regulations using its approach as a guide/model.

**G. REPORT FROM CHAIRMAN**

- 1. Reports from Committee Chairmen**

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

- 1. SP#407, Seshan, 6 Pine Ridge Road, Expansion/renovation of existing garage to accommodate an accessory apartment [P.H. Tuesday, October 13, 2015]**

**J. ADJOURNMENT**

MOTION was made by Mr. Hulse, seconded by Mr. Comiskey, and carried unanimously (9-0) to adjourn at approximately 9:08 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary