

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

WILTON PLANNING & ZONING COMMISSION MINUTES NOVEMBER 23, 2015 REGULAR MEETING

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

ABSENT: Bas Nabulsi (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.

Ms. Poundstone noted that this is the last meeting for three of our current Commissioners (Chris Hulse, John Comiskey and Bas Nabulsi). She thanked each of them (although Mr. Nabulsi was not present); acknowledging how important each has been to the Commission and how much each will be missed. She distributed small boxes of chocolate and noted that a donation was made by the Commission to Ambler Farm in their honor.

Mr. Hulse called the meeting to order at 7:15 P.M. and seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Poundstone, Shiue, and Wong. He scrambled the agenda to hear the Site Development Plan application for 49 New Street first.

C. SITE DEVELOPMENT PLAN REVIEW

1. Pat Hegnauer, 49 New Street, Signage pursuant to Section 29-8.A.8 of zoning regulations for the Alternative Signage Program

Mr. Nerney reviewed proposed signage plans for the site, noting that two signs are proposed (along Route 7 and Route 107), with the existing sign to remain on New Street. He noted that various exhibits are shown throughout the year at the Gilbert and Bennett Cultural Center and the proposed signage would make it easier for people to find the

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facility. He explained that the intent is to give the site a little more presence. Addressing questions from the Commission, he stated that the proposed signs would be 15 square feet each and would be located as noted on the original submittal.

Staff distributed a draft resolution of approval #1115-6Z for Commission review.

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried unanimously (8-0) to adopt as drafted Resolution **#1115-6Z** for **SDP (Alternative Signage)** at 49 New Street, effective November 23, 2015.

PUBLIC HEARINGS

1. SUB#914, 3 Hubbard Road, LLC/O'Brien, 434 Hurlbutt Street, 2-lot subdivision

Mr. Hulse called the Public Hearing to order at approximately 7:30 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. He noted that the hearing was continued from a previous date. Ms. Knapp referenced into the record a memorandum dated November 19, 2015 from Jennifer M. Zbell to Bob Nerney and Daphne White.

Present was Kevin O'Brien, on behalf of the applicant.

Mr. O'Brien provided a brief overview of the application, noting in particular that the 7.5+/- acre parcel would be subdivided into 2 lots with 2.5 acres of open space (contiguous to existing open space) to be donated to the Town. He explained that there are currently 2 guest cottages and 1 main residence on one of the lots, i.e. legally nonconforming, noting that 1 of the cottages would be eliminated as a residence to bring the newly configured lot into conformance with current regulations permitting a maximum of 2 dwelling units on a property.

Addressing issues that were raised at the last hearing, Mr. O'Brien stated that a Special Permit will be submitted to the Commission to legalize the aforementioned cottage as an accessory dwelling unit on the site, per the advice of Wilton Town Counsel. He noted that new septic systems are proposed for the new houses and the 1 residence cottage. He stated that the applicant would not be able to file the map until the new septic systems are installed and the existing one, which straddles the new property line, is removed.

Mr. Nerney noted for the record that the approval of the subdivision plan may occur before the Special Permit application for the accessory apartment is submitted, in which case he proposed a condition of approval whereby the subdivision plan shall not be

recorded in the land records until the Special Permit application for the accessory apartment is approved. Mr. O'Brien stated that his client would be fine with such a condition.

Mr. Fiteni raised a concern/question pertaining to the issue of owner-occupancy of one of the dwelling units (the main house or the accessory structure), which is required by regulations and which seemed to be an issue for the applicant at the last hearing. Mr. O'Brien assured the Commission that his client would comply with that requirement.

Mr. Nerney also noted that perhaps a further condition could be drafted that the open space shall be offered to the Town, as proposed, and if it is not accepted by the Town, then it shall be conveyed to the land owners within the subdivision.

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

There being no further comments from the Commission or the public, at 7:51 P.M. the Public Hearing was closed.

2. REG#15350, Thomas T. Adams, William L. Sachs, David F. Clune, Trustees of the Elizabeth Raymond Ambler Trust, Richard Christopher Montanaro and Richard S. Gibbons, by J. Casey Healy (Attorney for applicants); Amend Sections 29-2.B.60 and 29-4.B.5 of Zoning Regulations pertaining to frontage

Mr. Hulse called the Public Hearing to order at 7:51 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. He noted that the hearing was continued from a previous date. Ms. Knapp referenced into the record a 4-page response letter dated November 19, 2015 from J. Casey Healy to Planning and Zoning Commission, with attachments, including revised proposed text amendments.

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

Mr. Healy provided some background as to the genesis of the application. He explained that the applicants own property on Two Rod Highway, which is located north of Wampum Hill Road near the Weston town line. He noted that as a result of some Town discussion regarding the possible discontinuance of Two Rod Highway, any properties abutting the roadway would no longer have frontage on a Town street (a zoning requirement for the development of any lot), even if the lots were deemed to have adequate acreage; as a result, the proposed text amendment is meant to cure what would be perceived by the applicants as an unfair taking of said properties by the Town.

Mr. Healy referenced his response letter of November 19, 2015, noting that the text

modification included therein clarifies that any future divisions of land via the first cut or subdivision process must comply with Section 4.12 of the Town's Subdivision Regulations.

Addressing comment #2 of the Planning and Zoning Staff Report, Mr. Healy explained the difference between a discontinued road and an abandoned road. He stated that the term discontinuance refers to the statutory process by which a municipality discontinues a town road, thus terminating the public's right to pass and re-pass over the road and, as a result of which, the municipality no longer has any responsibility to maintain said road. He explained that abandonment of a town road occurs as a result of a judicial proceeding associated with a court finding, i.e. the municipality does not initiate a statutory process to abandon a road.

Addressing comment #3 of the Planning and Zoning Staff Report, Mr. Healy explained that the applicants are seeking to protect their property rights as opposed to pursuing a claim against the Town for inverse condemnation if/when the Town decides to discontinue Two Rod Highway.

Mr. Nerney provided a bit of background pertaining to the Two Rod Highway area, noting that the matter has been around for over 10 years. He explained that the area is impassable, although the courts ruled several years ago that Two Rod Highway is a Town road. He noted that the ruling is of great concern to the Town should property owners attempt to subdivide the existing parcels and attempt to require the Town to improve the "roadway" in the future. He explained that the application is an attempt to protect the applicants' property rights in a minimal way, i.e. to be able to put the land to some use; while heading off the potential multiple splitting of these lots and the resulting possible claims for "road" improvement in the future.

In response to questions from Ms. Knapp, Mr. Nerney explained that a discontinuance of the roadway would relieve the Town of any obligation to upgrade the road, i.e. it would prevent sub-standard subdivisions from occurring as well as the resulting pressure on the Town to upgrade/maintain the road. Mr. Healy noted further that, historically, if an applicant wants to propose a Town road, the applicant must build it and it must comply to all Town road standards; thus, any development proposal in the future (after a roadway discontinuance is approved) would require the roadway to be built by the applicant/developer, similar to the Middlebrook Lane development off Middlebrook Farm Road, which roadway was built by the developer and not the Town.

In response to a question from Mr. Fiteni as to other Town properties that might be impacted by the proposed regulation change, Mr. Nerney cited Old Huckleberry as another potential area of impact, although he noted that most of the properties in that area have already been acquired by the South Norwalk Electric and Water Company. He felt that the regulation in question is really trying to address the Two Rod Highway area only.

Mr. Nerney felt that the regulation as proposed is trying to strike a balance between not stripping property owners of their inherent property rights and assuring that future development does not lead to or exacerbate unsafe conditions or potentially result in a claim against the Town to upgrade/maintain a “road” that is essentially wooded forest and un-passable.

Mr. Wong stated that he had a problem with the Town taking unilateral action which essentially will make legal lots unbuildable. He felt that the Town has certain obligations that it will not be fulfilling if it decides to discontinue Two Rod Highway.

Mr. Fiteni noted that the Commission’s role is to review and decide on the text amendment before it, not to debate the issue of discontinuance which falls under the purview of the Board of Selectmen.

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

Barbara Holdridge, 14 Forge Road, stated that she and her husband have been residents of the Town for 50+ years. She asked whether the applicant/Trust owns any other properties in Town. Mr. Healy stated that the applicant does own other Town properties, noting that Rolling Hills Country Club is one of its holdings. Ms. Holdridge thanked staff for the assistance it provided to her earlier in the day.

There being no further comments from the Commission or the public, at approximately 8:20 P.M. the Public Hearing was closed.

REGULAR MEETING

A. Mr. Hulse called the Regular Meeting to order at approximately 8:20 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. November 9, 2015 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Mr. Comiskey, and carried (8-0) to approve the minutes of November 9, 2015 as drafted.

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

- 1. SUB#914, 3 Hubbard Road, LLC/O'Brien, 434 Hurlbutt Street, 2-lot subdivision**

The Commission requested that staff prepare a draft resolution of approval for review/vote at the next meeting.

- 2. REG#15350, Thomas T. Adams, William L. Sachs, David F. Clune, Trustees of the Elizabeth Raymond Ambler Trust, Richard Christopher Montanaro and Richard S. Gibbons, by J. Casey Healy (Attorney for applicants); Amend Sections 29-2.B.60 and 29-4.B.5 of Zoning Regulations pertaining to frontage**

The Commission requested that staff prepare a draft resolution of approval for review/vote at the next meeting.

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. SUB#915, 183 Ridgefield Road, LLC, 183 Ridgefield Road, 4-lot subdivision [Public Hearing – December 14, 2015]**

J. ADJOURNMENT

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

Respectfully submitted,

Lorraine Russo
Recording Secretary