

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

WILTON PLANNING & ZONING COMMISSION MINUTES DECEMBER 14, 2015 REGULAR MEETING

PRESENT: Chairwoman Sally Poundstone, Vice Chairwoman Lori Bufano, Secretary Doris Knapp, Commissioners Joe Fiteni, Scott Lawrence, Keith Rodgerson, 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.

Ms. Poundstone, acting as Chair, opened the meeting and seated members Bufano, Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue, and Wong. She welcomed new members Scott Lawrence and Keith Rodgerson to the Commission.

NOMINATION & ELECTION OF OFFICERS

Ms. Poundstone yielded the Chair to Secretary Knapp for the nomination of Chairman.

MOTION was made by Ms. Bufano, and seconded by Mr. Fiteni to nominate Sally Poundstone for Chairman.

There were no other nominations for Chairman, so nominations for Chairman were closed.

Vote on the motion carried unanimously (8-0).

Ms. Poundstone resumed the role of Chairwoman.

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MOTION was made by Ms. Poundstone, and seconded by Mr. Shiue to nominate Lori Bufano for Vice-Chairwoman.

There were no other nominations for Vice-Chairman, so nominations for Vice-Chairman were closed.

Vote on the motion carried unanimously (8-0).

MOTION was made by Mr. Fiteni, and seconded by Ms. Bufano to nominate Doris Knapp for Secretary.

There were no other nominations for Secretary, so nominations for Secretary were closed.

Vote on the motion carried unanimously (8-0).

PUBLIC HEARINGS

1. SUB#915, 183 Ridgefield Road, LLC, 183 Ridgefield Road, 4-lot subdivision

Ms. Poundstone called the Public Hearing to order at approximately 7:20 P.M., seated members Bufano, Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated November 30, 2015 and she referenced into the record a letter dated December 14, 2015 from J. Casey Healy to Planning and Zoning Commission requesting a continuance of the public hearing until January 11, 2016; a letter dated October 13, 2015 from Michael Kanios (CT Dept of Transportation) to Holt McCord [sic]; two emails between Casey Healy and Daphne White sent December 8, 2015; a 3-page Planning and Zoning Staff Report dated December 8, 2015; a memorandum dated December 8, 2015 from Conservation Commission to Planning & Zoning Commission; a letter dated December 11, 2015 from Kristina Newman-Scott to Lynne Vanderslice; and a letter dated December 14, 2015 from Pamela Brown to Members of the Planning and Zoning Commission.

Ms. Poundstone explained that the hearing would be continued until January 11, 2016 at the request of the applicant. She stated that anyone who wished to speak for or against the application could do so this evening, although no one representing the applicant was present to hear or respond to said comments.

There being no comments from the Commission or the public, at approximately 7:23 P.M. the Public Hearing was continued until January 11, 2016.

REGULAR MEETING

A. Ms. Poundstone called the Regular Meeting to order at approximately 7:23 P.M., seated members Bufano, Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. November 23, 2015 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried (6-0-2) to approve the minutes of November 23, 2015 as drafted. Commissioners Lawrence and Rodgerson abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. REG#15351, J. Casey Healy, To Amend Section 29-8.B.5.b (9) of Zoning Regulations to modify parking requirements for commercial kennels

It was the consensus of the Commission to accept the application and set a public hearing date for January 11, 2016.

E. PENDING APPLICATIONS

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

The Commission reviewed draft Resolution #1215-2S.

Modifications were made to the resolution to clarify the meaning of “decommission” in paragraph C.11.f of the resolution.

Mr. Wong raised an issue pertaining to the definition of “accessory dwelling unit” in the zoning regulations, noting that the cottages referenced in the resolution did not appear to satisfy the characteristics defined in said regulations. He referred specifically to whether a stand-alone accessory dwelling unit is actually permitted by regulation. He stated that he was unclear as to the intent of the regulation as written.

Mr. Nerney explained that the accessory dwelling unit regulation has been around for some time, noting that its intent was not necessarily to prohibit multiple units within a structure but rather to afford other types of living arrangements, e.g. elderly parents, adult children, etc. He stated that the Town has historically permitted one accessory dwelling unit per property, whether attached or detached, noting that if the unit is detached, then a Special Permit is required.

Some discussion on the matter ensued. It was the general consensus of the Commission that the regulations do in fact permit stand-alone accessory dwelling units via the Special Permit process. In response to a question from Ms. Knapp, Mr. Nerney confirmed that it is the right of the Commission to interpret its regulations as it sees fit.

Mr. Wong also raised the issue of how a corporate entity could satisfy the regulation's requirement that one of the dwelling units must be owner-occupied. It was the consensus of the Commission that this issue was not germane to this evening's discussion but rather would be discussed, if necessary, at the time of the Special Permit application.

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried (5-0-3) to adopt as amended Resolution #1215-2S for SUB#914, effective December 17, 2015. Commissioners Lawrence, Rodgerson and Shiue abstained.

WHEREAS, the Wilton Planning and Zoning Commission has received a **Subdivision** application **SUB#914** from Kevin E. O'Brien, for a two-lot re-subdivision located at 434 Hurlbutt Street, in a Single Family Residential "R-2A" District, Assessor's Map #20, Lot #4, comprising 7.248 acres of land, owned by 3 Hubbard Road, LLC, and shown on the plans entitled:

Resubdivision Map of 434 Hurlbutt Street, prepared for 3 Hubbard Road, LLC, prepared by Roger A. Stalker, land surveyor, dated December 18, 2014, last revised March 12, 2015, at a scale of 1"=40', sheet #1 of 1.

Vicinity Sketch, prepared for 3 Hubbard Road, LLC, prepared by Roger A. Stalker, land surveyor, dated December 18, 2014, at a scale of 1"=100', sheet #1 of 3.

Topographic Survey, prepared for 3 Hubbard Road, LLC, prepared by Roger A. Stalker, land surveyor, dated December 18, 2014, at a scale of 1"=40', sheet #1 of 1.

Subdivision Development Plan, prepared for 3 Hubbard Road, LLC, prepared by Holt W. McChord, engineer, dated May 27, 2015, last revised July 1, 2015, at a scale of 1"=40', sheet #SE1.

Construction Notes and Details, prepared for 3 Hubbard Road, LLC, prepared by Holt W.

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McChord, engineer, dated May 27, 2015, last revised July 1, 2015, scale as noted, sheet #SE2.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on November 9, 2015 and on November 23, 2015 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, the Inland Wetlands Commission issued an inland wetland permit (WET #2331) in July of 2015 for the subject re-subdivision request; and

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

NOW THEREFORE BE IT RESOLVED effective December 17, 2015 the Wilton Planning and Zoning Commission **APPROVES** the two-lot re-subdivision for 434 Hurlbutt Street, subject to the endorsement and filing of the record Subdivision Map, and subject to the following conditions:

A. GENERAL CONSIDERATIONS

1. It is the responsibility of the applicant to obtain any other permits or licenses required by law or regulation. Governing bodies which may have jurisdiction include the Town of Wilton; the State of Connecticut or the United States Government.
2. No equipment or material shall be deposited, placed or stored in any wetland or water course, on or off site unless specifically authorized by an Inland Wetlands Permit.
3. Housing numbers shall be as follows:

Lot 1 shall remain 434 Hurlbutt Street, (Map#20, Lot#4)

Lot 2 shall become 420 Hurlbutt Street, (Map#20, Lot#4-56)

B. PERTAINING TO (Lot #2, undeveloped lot)

4. Development shall not alter the existing natural site grading and drainage patterns of adjoining properties. Runoff caused by new development, during and after construction, shall be minimized and diverted to natural drainage patterns.
5. Driveways shall be clearly marked to facilitate rapid identification by emergency vehicles.
6. Fuel oil tanks shall only be located above ground or within a basement.
7. The parking of equipment during construction shall be limited to on-site parking only.
8. Any significant change in the build-out of each lot or location and design of infrastructure improvements associated with this application shall be subject to Planning and Zoning Department staff review and approval and may be referred to the Commission if deemed warranted by staff.
9. There shall be no construction activities on the site on Sundays or holidays. The

hours of construction shall be between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays, except for interior work within the individual houses.

10. A copy of this resolution shall be given to the project manager of each lot and shall be available on site during construction.

C. PRIOR TO FILING OF RECORD SUBDIVISION MAP

11. The final Record Subdivision Map shall be revised to include the following:
 - a. The address designation within each approved lot as specified herein.
 - b. The note: “Subdivision #914 for conditions of approval see Resolution #1215-2S.
 - c. Subject to acceptance by the Board of Selectmen, the proposed open space shall be deeded to the Town of Wilton. In the event the Town chooses not to accept the open space, the applicant shall deed such area as development-restricted open space to either a non-profit land conservation trust or to the owner(s) of the lots with in the subdivision. Said dedication shall occur concurrently with the filing of the record subdivision map.
 - d. Prior to recording the approved record subdivision map in the Land Records and subject to the approval of the Health Department, the applicant shall abandon the septic systems presently serving the main residence, north cottage and the south cottage.
 - e. Prior to recording the approved record subdivision map in the Land Records, the applicant shall to the satisfaction of the Health Department, install a new septic system to service the main residence and a new separate septic system (second system) to service the northerly two-bedroom cottage. No new replacement septic system shall be permitted for the southerly cottage unless authorized by the Health Department and the Planning and Zoning Commission or the Planning and Zoning Commission’s staff.
 - f. Prior to recording the approved record subdivision map in the Land Records, the applicant shall decommission the southerly cottage as residence. The northerly cottage shall also be decommissioned as a residence unless a special permit for an accessory dwelling unit is first approved by the Planning and Zoning Commission prior to the filing of the record subdivision map. The term decommission shall include the removal of all kitchen and cooking facilities and sanitary facilities other than a half bath.
 - g. The record subdivision map shall be filed within 90 days following expiration of the appeal period, unless the applicant obtains an extension from the Planning and Zoning Commission.
 - h. The applicant shall provide the Planning and Zoning Department with an electronic copy of the subdivision map prior to the recording of said map with the Town Clerk.

D. SUBSEQUENT TO FILING OF THE FINAL SUBDIVISION MAP

12. The applicant shall, within thirty (30) day of the filing of the Record Subdivision Map, submit the following:
 - a. Eight (8) paper prints of the filed record subdivision map with the Town Clerk's notations. Said prints shall be signed and embossed by all the appropriate consultants/engineers.
 - b. The record subdivision map shall indicate all watercourses and wetlands on the two lots.
 - c. A Mylar reduction of the approved Subdivision Plan at a scale of 1"=800'.
 - d. Four (4) copies of all other plans and documents as specified herein. Said plans and documents shall bear the seal, signature and license number of the registered professional(s) responsible for preparing appropriate sections of the plans and documents.

**E. PRIOR TO THE ISSUANCE OF A ZONING PERMIT
(For Lot #2)**

13. Prior to obtaining a zoning permit for the development of Lot #2, the applicant shall submit a site plan for review by the Commission's staff. The site plan shall include a tree and stone wall preservation plan. Such plan shall locate trees with a diameter (caliper) over 16" within the buildable area and 10" diameter (caliper) within the setback areas and the location of stone walls. The plan shall explain why any such tree or stone wall is not being preserved, and shall explain alternate plans that have been considered. All trees and stone walls included in the tree and stone wall preservation plan must be protected during the construction phase and thereafter.
14. The proposed storm drainage for Lot #2 shall be in accordance with the applicant's approved site development plans referenced in the condition above, the storm water analysis and the revised site plan submitted to the Wilton Health Department entitled: Subdivision Development Plan, prepared for 3 Hubbard Road, LLC, prepared by Holt W. McChord, engineer, dated May 27, 2015, last revised November 23, 2015, at a scale of 1"=40', sheet #SE1. Any change or alteration to planned drainage improvements to either lot shall be subject to the review and approval of Planning and Zoning Commission and/or Planning and Zoning Department staff. Said plan shall be prepared and stamped by a professional engineer and submitted and approved by the Planning and Zoning Department, prior to the issuance of a Zoning Permit.
15. A bond estimate for all site work shall be provided by the applicant to the Commission's staff which shall include provisions for sedimentation and erosion controls and a 10% contingency. Such amount shall be approved by the Commission's staff. The bond shall be in a form and amount with proper surety

satisfactory to the Commission's Land Use Counsel, and shall be submitted prior to any site disturbance.

16. Zoning permits involving new construction on Lot #2 shall be accompanied by a hydrology report prepared and stamped by a Connecticut-licensed engineer, if the proposed site development plan differs from the submitted stamped engineering plans reviewed by the Planning and Zoning Commission. The peak rate of runoff shall be attenuated to a pre-development (undeveloped) condition and individual drainage galleries shall be sized and constructed to such standard.
17. The applicant shall submit revised grading plans for each lot, if the site plans and layouts of each lot are modified at time of development.
18. Final plans shall be updated to include the Health Department certification block pursuant to Section 3.315 of the Subdivision Regulations.

**F. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE
(For Lot #2)**

19. All utilities for the lot shall be installed underground prior to the issuance of a certificate of zoning compliance.
20. All lot corners shall be pinned and verification from the applicant's land surveyor of such lots shall be submitted prior to obtaining zoning compliance for such lot.
21. An as-built plan showing the location of the underground detention system, as depicted on the site development plan, and as shown on the Subdivision Development Plan, shall be submitted prior to zoning compliance for the lot. In addition, the applicant shall certify by way of a professional engineer's report, that the drainage system has been installed and completed in accordance with approved plans.
22. The applicant's land surveyor shall submit an as-built land survey indicating post-construction building coverage and site coverage.
23. The vegetation obstructing sight lines adjacent to the proposed new driveway for Lot #2 shall be removed to improve visibility to a distance of 100 feet or greater in each direction.

-END RESOLUTION-

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 reviewed draft Resolution #1215-2REG.

Mr. Nerney briefly reviewed a history of the 2 Rod Highway property and the rationale behind the subject application. He noted that the purpose of the proposed regulation change is to afford some protection to existing lots that lose their frontage effective with the date of a road discontinuation. He explained further that the amendment as proposed would afford such properties reasonable build-out while also avoiding a potential confiscatory taking claim against the Town.

He explained the difference between abandonment of a road, which is a finding of the court, versus a discontinuance of a road, which is a municipal action/decision.

Mr. Wong questioned why the Town was considering such an application at this time, questioning in particular why it was necessary to act in a proactive manner with respect to an issue that had not yet actually surfaced.

Mr. Nerney explained that discontinuing such a “road” (which he noted currently bears no resemblance to a road at all) removes the potential that pressure could be brought to bear on the Town in the future for improvement of the “road” in connection with possible future development of the lots. He felt that addressing this issue via the subject regulation amendment would ultimately be in the long-term better interest of the Town since it removes the Town from any potential improvement obligations/liabilities in the future.

MOTION was made by Mr. Fiteni, seconded by Ms. Knapp, and carried (5-1-2) to adopt as drafted Resolution #1215-2REG for application REG#15350, effective December 17, 2015. Commissioner Wong opposed. Commissioners Lawrence and Rodgerson abstained.

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

Ms. Poundstone addressed the issue of a vacancy on the Commission as a result of recently elected Karin Venditti’s resignation; which position needs to be filled by January 4, 2016. It was determined that a Special Meeting would be held on Thursday, December

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17, 2015 at 10 AM with the understanding that any Commissioner who could not physically be present would be provided a call-in number to participate via conference call.

Mr. Wong questioned the rules governing such an appointment, specifically whether the position should be opened to the minority party as well. Commissioners were of the opinion that the position was required to be filled with a person from the same party as the originally elected person, but it was agreed that the matter would be forwarded to Town Counsel for a legal opinion.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Mr. Wong, and carried unanimously (8-0) to adjourn at 8:15 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary