

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

WILTON PLANNING & ZONING COMMISSION MINUTES MAY 9, 2016 REGULAR MEETING

PRESENT: Chairwoman Sally Poundstone, Vice Chairman Joe Fiteni, Secretary Doris Knapp, Commissioners Scott Lawrence, Keith Rodgerson, Peter Shiue and Rick Tomasetti

ABSENT: Andrea Preston, Franklin Wong

ALSO

PRESENT: Robert Nerney, Town Planner; Daphne White, Assistant Town Planner; Karen Pacchiana, Recording Secretary; members of the press; and interested residents.

PUBLIC HEARINGS

- 1. SP#410, O'Brien/Townsend-Adams Props, LLC, 23 Hubbard Road, To allow two dwelling units over office space, pursuant to Section 29-6.C.4.b of zoning regulations**

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Commissioner Tomasetti recused himself from the hearing.

Ms. Knapp referenced a communication from Mr. O'Brien dated May 5, 2015 advising that two additional sets of plans have been filed.

Mr. O'Brien said in 1989 the Zoning Board of Appeals approved two apartments on the third floor of the building. The proposal is for a small fire escape in the back of the building, a pad for an air conditioning unit and some egress windows in the bedrooms per the building code. They are also adding dormers at each end of the existing building and dormers in the middle to expand the space on the third floor, which will be connected with a balcony with a railing around it for safety. The balconies in the back of the

building will be removed. There is no proposed change in lighting.

Ms. Poundstone 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 7:25 P.M. the Public Hearing was closed.

2. SP#412, Kevin O'Brien/Smith, 50 Grumman Ave, To allow a detached accessory dwelling unit

Ms. Poundstone called the Public Hearing to order at 7:25 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp referenced a letter dated May 5, 2016 from Kevin O'Brien requesting a continuance of the Public Hearing until May 23, 2016, as well as an email from Marie Mazza concerning this application.

Ms. Poundstone 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 7:26 P.M. the Public Hearing was continued until May 23, 2016.

3. SP#413, Best Friends Total Pet Care, 213 Danbury Road, To allow a commercial kennel and veterinary hospital

Ms. Poundstone called the Public Hearing to order at 7:26 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp referenced a letter dated May 9, 2016 from Casey Healy requesting a continuance of the Public Hearing until May 23, 2016, and a 6-page response to the staff report and a notification that they have revised their application so as to discontinue the veterinary hospital use.

Ms. Poundstone 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 7:28 P.M. the Public Hearing was continued until May 23, 2016.

REGULAR MEETING

A. Ms. Poundstone called the Regular Meeting to order at 7:28 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Rodgerson, Shiue and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. April 25, 2016

MOTION was made by Ms. Knapp, seconded by Mr. Lawrence and carried (7-0) to approve the minutes of April 25, 2016 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

1. **SDP, State of Connecticut Department of Transportation, Owner, Friends of Norwalk River Valley Trail, applicant, Intersection of Sharp Hill Road and Autumn Ridge Road (property known as Assessor's Map 44, Lot 38), request to establish an 8 space gravel parking area in conjunction with the NRVT trail system.**

Ms. Knapp referenced a memorandum dated May 9, 2016 from Pat Sesto, Chairman of the Norwalk River Valley Trail Association, consisting of four pages; a memorandum to Daphne White from Michael Ahern, Professional Engineer, with an attachment and another communication to Daphne White from Michael Ahern, Professional Engineer, dated May 5, 2016 with an additional attachment, and emails from Pat Sesto and Daphne White.

Mr. Nerney explained that the property in question is located off of Autumn Ridge Road and is owned by the State of CT Department of Transportation. The land was formerly part of the Super 7 highway corridor and is now being used as the Norwalk River Valley Trail. The proposed 8-space gravel parking area would allow people to pull off the road and park without being on the roadway shoulder and blocking the road and would help facilitate the majority of the parking demand. In the staff report, they have suggested that the applicant consider a hammerhead turn on each end of the parking bay to allow a more efficient way for drivers to exit the site. Because it is a public road, DPW is asking that the apron off of the road be paved for 15' so as to prevent the tracking of gravel onto the town roadway.

Robert McWilliams said he is a volunteer with the NRVT and is there instead of Pat Sesto, who couldn't make it. He said at this point they are trying to respond to the residents of Autumn Ridge, who have been very supportive, but have also complained that the parking on their road is an inconvenience. The NRVT is willing to do everything it can in terms of hammerheads and

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landscaping to make this acceptable to the Commission, the town and the community. Later this summer they will be building a boardwalk from where the trail currently ends to a new trail that will take you to Twin Oak Lake where there is quite a lot of off road parking.

The Commissioners agreed that the NRVT is a great thing and a benefit for the town, but questioned whether eight spaces will alleviate the parking situation at Autumn Ridge. They were also concerned about traffic congestion at the intersection of Wolfpit and Route 7 as cars are parked all over and it is a safety issue, and felt that more consideration needed to be given to parking issues in the future as the trail extends into other neighborhoods. They suggested that a comprehensive plan be developed so they can understand what the intentions are for parking at the various access points, as the issue will come up again fairly soon.

It was pointed out that, regulatorily, they are neither operating under an authority to define how many spaces they should be making nor do they have a regulatory basis for demanding a plan that looks beyond next week. They can only act within their regulatory authority, and there is no minimum or maximum language which would trigger a master planning requirement for a trail in the town of Wilton.

Mr. Nerney said he agrees that the regulatory criteria really doesn't anticipate a trail. He thinks from a regulatory view point it would be very difficult to pin those kinds of issues down. However, parking is a little different because it is in a residential area so you want to try to soften it somewhat and maybe they should look at it less from a regulatory view point and more just as planners.

Donna Merrill, Conservation Commission, said she visited the site and pointed out that the space that will be transformed into parking is a mess of Japanese knotweed, which is new in their town and very noxious to their forests, but also there is a lovely stand of young black birch, which is very important to the biodiversity, and she would ask if at all possible that they look at moving the entrance a little bit so the birch trees could remain. Ms. White said she will look at them in the field.

Ms. Poundstone asked Mr. Nerney to meet with the relevant folks from the NRVT, and to prepare a draft resolution for the next meeting so that they can be more informed about the present proposal as well as the immediate future, but try to keep the process moving along.

There being no further comments from the Commission or the public, at 8:15 P.M. the discussion was continued until May 23, 2016.

D. ACCEPTANCE OF NEW APPLICATIONS

- 1. SP#416, Sound Management Group, 21 Trail's End Road, To allow a detached accessory dwelling unit within an existing pool house**

It was the consensus of the Commission to accept application SP#416 and set a public hearing date for June 27, 2016.

E. PENDING APPLICATIONS

- 1. SP#410, O'Brien/Townsend-Adams Props, LLC, 23 Hubbard Road, To allow two dwelling units over office space, pursuant to Section 29-6.C.4.b of zoning regulations**

MOTION was made by Mr. Rodgerson, seconded by Ms. Knapp and carried (6-0-1) to adopt Resolution #0516-4P as amended. (Mr. Tomasetti abstained.)

WHEREAS, the Wilton Planning and Zoning Commission has received Special Permit application (**SP#410**) from Kevin E. O'Brien to allow two dwelling units over existing office space, pursuant to Section 29-6.C.4.b., 23 Hubbard Road, Assessor's Map 73, Lot 32-1, 1.237 acres, owned by Townsend-Adams Properties LLC, and located in a Wilton Center "WC" District; as shown on the plans entitled:

Property Survey-Prepared for 23 Hubbard Road, LLC, Prepared by Douglas R. Faulds, land surveyor, dated July 23, 2009, last revised September 14, 2009, scale 1"=20' (reduced copy).

Southern Apartment-Prepared for 23 Hubbard Road, dated January, 2016, submitted February 26 2016, scale 1/4"=1', Sheet #1 of 2.

Northern Apartment-Prepared for 23 Hubbard Road, dated January, 2016, submitted February 26 2016, scale 1/4"=1', Sheet #2 of 2.

Southern Apartment-Prepared for 23 Hubbard Road, dated January, 2016, submitted February 26 2016 and March 28, 2016, scale 1/4"=1', Sheet #1 of 5.

Northern Apartment-Prepared for 23 Hubbard Road, dated January, 2016, submitted February 26 2016 and March 28, 2016, scale 1/4"=1', Sheet #1 of 5.

Front Elevation-Prepared for 23 Hubbard Road, submitted March 28, 2016 and May 5, 2016, scale 1/4"=1', Sheet #3 of 5.

Front Elevation-Prepared for 23 Hubbard Road, submitted March 28, 2016 and May 5, 2016, scale 1/4"=1', Sheet #4 of 5.

Partial Rear Elevation and Plan-Prepared for 23 Hubbard Road, submitted March 28, 2016 and May 5 2016, scale 1/4"=1', Sheet #5 of 5.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on March 28, 2016, April 11, 2016 (continued), April 25, 2016, (continued), and May 9, 2016, to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, the Commission has determined that the proposed application meets the applicable regulatory provisions of the Wilton Zoning Regulations

WHEREAS, the Commission finds the request consistent with the 2010 Plan of Conservation and Development which encourages the creation of housing designed to enhance the economic vitality and vibrancy of the village center.

NOW THEREFORE BE IT RESOLVED effective May 12, 2016 that the Wilton Planning and Zoning Commission **APPROVES** Special Permit #410 to allow two dwelling units over existing office space, pursuant to Section 29-6.C.4.b., 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 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 complete within five years of the effective date of this resolution. This five-year period shall expire on May 12, 2021.
3. Any new lighting shall be designed so as to comply with shielding requirements provided Section 29-9.E.2.a. of the Zoning Regulations.
4. This resolution does not supersede previous approvals or conditions of approval, imposed by the Planning and Zoning Commission by way of past site development plan approvals for 23 Hubbard Road (formerly known as 21 Hubbard Road and 15 Godfrey Place).
5. The existing trees and shrubs are to remain.

Submittal of revised plans and application:

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

prior to receiving 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 May 12, 2021."
- b. "For conditions of approval for Special Permit #410, see Resolution #0516-4P."

Prior to the issuance of a Zoning Compliance Certificate:

- 7. Prior to the issuance of zoning compliance, the applicant shall submit a final as-built survey showing building and site coverages, if requested by the Zoning Enforcement Officer.

- END RESOLUTION -

- 2. **SP#412, Kevin O'Brien/Smith, 50 Grumman Ave, To allow a detached accessory dwelling unit**

Tabled.

- 3. **REG#16352, Planning and Zoning Commission, To amend Section 29-11.A.12 pertaining to bond requirements, and Section 29-2 pertaining to definitions within the Zoning Regulations**

Mr. Nerney said the first resolution (#0516-2REG) involves regulation changes to change the bonding requirements to parallel the State General Statutes, and to create a definition for the term "Zoning Enforcement Officer". He explained that the second resolution (#0516-1MISC) is to clarify delegation of responsibilities and to memorialize the Planning and Zoning Commission's assignment of duties to staff members, i.e. Town Planner, Assistant Planner and the Zoning Enforcement Officer.

Ms. White said she would note one change on Resolution #0516-2REG; the second sentence should read Sections 29-2.B instead of 29-2.

MOTION was made by Ms. Knapp, seconded by Mr. Tomasetti and carried (7-0) to adopt Resolution **#0516-2REG** as amended.

WHEREAS, the Wilton Planning and Zoning Commission accepted application **#16352**

involving amendments to Sections 29-2.B. and 29-11.A.12. of the Zoning Regulations of the Town of Wilton for the purpose of clarifying performance bond posting requirements and defining the term “Zoning Enforcement Officer”; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on April 25, 2016 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, the Planning and Zoning Commission finds the amendments, as proposed, comport with the Connecticut General Statutes and serve to protect the broader interests of the community.

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** amendment #16352 effective May 9, 2016, as follows:

29-11.A.12. Bond Requirements:

- a. Bond: As a condition of Site Plan approval, the Commission may, in its sole discretion, require that the applicant post a performance bond in a form satisfactory to the Town Attorney and with surety satisfactory to the Commission, in order to guarantee satisfactory completion of those site improvements which are to be conveyed to or controlled by the Town and/or cover the cost of sedimentation and erosion control measures maintained during construction as shown on the approved Site Plan. An itemized estimate of the cost of said improvements shall be prepared by the applicant and shall be submitted to the Town Engineer and the Town Planner for approval. Said bond shall be posted with the Town for a period of time of not less than five years and two months or until such time project is satisfactorily completed; whichever event occurs first.
- b. Form of Bond: Performance and maintenance bonds required under this section shall:
 - (1) Be in a form and with surety satisfactory to the Commission; and,
 - (2) Be in a form of cash; a certified check payable to the Town of Wilton; or an irrevocable letter of credit from a bank chartered to conduct business in Connecticut.
- c. Reduction of Performance Bond: Upon the completion of at least 25%, 50% and/or 75% of the cost of the bonded site improvements, the applicant may request in writing a reduction of

the bond. The Commission shall cause the site to be inspected by the ZEO, the Town Engineer, and/or other appropriate Town officials to determine if the portion of the required site improvements for which the reduction is being requested has been satisfactorily completed in accordance with the approved Site Plan. Based upon these findings, the Commission may authorize the reduction of such bond.

- d. Release of Performance Bond/Posting of Maintenance Bond:
Before the release of a performance bond, the Commission:
- (1) Shall require the applicant submit "as-built" drawings in accordance with 29-11.A.18;
 - (2) May require that the applicant post a maintenance bond for a period of not more than one year extending beyond the final completion and acceptance of site improvements which are to be conveyed to or controlled by the Town.

29-2.B. DEFINITIONS:

180. ZONING ENFORCEMENT OFFICER (ZEO): Those person(s), functioning either jointly or severally, who are responsible for the administration and enforcement of the Zoning Regulations of the Town of Wilton (Zoning Regulations). For purpose of these regulations, the Planning and Zoning Commission may delegate the responsibility of administering and enforcing the Zoning Regulations to any, some or all of the following town officials: "Zoning Enforcement Officer", "Director of Planning and Land Use Management (Town Planner)" and "Assistant Town Planner".

- END RESOLUTION -

MOTION was made by Mr. Fiteni, seconded by Ms. Knapp and carried (7-0) to adopt Resolution #0516-1MISC

WHEREAS, pursuant to Resolution #0516-2REG, the Planning and Zoning Commission has approved amendments to the Zoning Regulations of the Town of Wilton for the purpose defining the term "Zoning Enforcement Officer" and clarifying the assigned authority of said officer; and

WHEREAS, the amendment allows the Commission the ability to delegate administrative and enforcement responsibilities specified within the Zoning Regulations of the Town of Wilton to certain staff members of the Wilton Planning and Zoning Department; namely the Zoning Enforcement Officer, Director of Planning and Land Use Management (Town Planner) and the Assistant Town Planner; and

WHEREAS, delegation of such authority is essential for fulfilling the responsibilities of the

Wilton Planning and Zoning Department in terms of addressing workload demands and providing a timely and efficient customer service.

NOW THEREFORE BE IT RESOLVED that effective May 9, 2016, the Wilton Planning and Zoning Commission delegates administrative and enforcement functions contained within the Zoning Regulations of the Town of Wilton to the Zoning Enforcement Officer, Director of Planning and Land Use Management (Town Planner) and the Assistant Town Planner.

-END RESOLUTION-

- 4. SP#413, Best Friends Total Pet Care, 213 Danbury Road, To allow a commercial kennel and veterinary hospital**

Tabled.

F. COMMUNICATIONS

- 1. SUB#915, 183 Ridgefield Road, LLC, Request for 90-day extension of the June 6, 2016 deadline to file the subdivision mylar per Resolution #0713-3S**

Mr. Nerney said under State Statute you are required to record plans within 90 days and the applicant is asking for an extension. They can seek up to two extensions from the Commission for recording the plan.

MOTION was made by Ms. Knapp, seconded by Mr. Tomasetti and carried (6-1) to approve the request for 90-day extension (Mr. Rodgerson opposed).

G. REPORT FROM CHAIRMAN

- 1. Reports from Committee Chairmen**

Ms. Poundstone thanked the Town Planner and staff for putting together the packet about age restricted communities and zoning regulations from other groups. She wanted to reserve time at one of their upcoming meetings specifically to discuss this and suggested the first meeting in June to at least start work on it. Ms. Knapp suggested that they get some publicity in the paper about the topic so interested people from the community can express their opinions. Mr. Nerney said at some point there will be a public hearing.

H. REPORT FROM PLANNER

Mr. Lawrence asked what is the philosophy on site walks. Mr. Nerney said the Commission usually does site walks independently because if more than three members meet on a property, it becomes a public meeting and they have to notice it. It can also create other problems in terms of being a public meeting offsite, and ADA access provisions sometimes come into play, so traditionally they have preferred that members do the site visits on their own.

I. FUTURE AGENDA ITEMS

- 1. REG#16353, I Park Norwalk II, LLC, Amend Sections 29-2.B.149, 29-7.B.2, 29-7.C.2, 29-7.E.2, 29-7.E.3, 29-7.E.4 and 29-7.E.5 pertaining to DE-5 and DE-10 zones. [P.H. May 23, 2016]**
- 2. SP#414, ASML US, INC., 77 Danbury Road, To allow an accessory parking garage. [P.H. May 23, 2016]**
- 3. SP#415, Arthur, 39 Powder Horn Hill Road, To allow establishment of an accessory dwelling unit [P.H. June 13, 2016]**

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Mr. Lawrence and carried unanimously (7-0) to adjourn at 8:24 P.M.

Respectfully submitted,

Karen Pacchiana
Recording Secretary