

PLANNING & ZONING
COMMISSION
Telephone (203) 563-0185
Fax (203) 563-0284



TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

WILTON PLANNING & ZONING COMMISSION MINUTES MAY 23, 2016 REGULAR MEETING

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

ABSENT: Keith Rodgerson, Frank Wong (notified intended absences)

ALSO

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

PUBLIC HEARINGS

1. 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 7:15 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Preston, Shiue, and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Poundstone noted that the hearing was continued from a previous date. Ms. Knapp referenced into the record a letter dated May 23, 2016 from Paul Jarboe to Planning and Zoning Commission, and a memorandum dated May 23, 2016 from Jennifer M. Zbell to Bob Nerney and Daphne White.

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

Mr. O'Brien distributed an updated survey of the property dated May 18, 2016. He addressed several outstanding issues, noting that the applicant intends to take off the roof of the existing ranch home and transform it into a colonial style residence; and that the owners plan to move into the barn in the back during construction on the main residence and then move back into the main residence once the work is completed.

He explained that ongoing issues with the septic system have not yet been 100% resolved but he was confident that everything could be worked out with the Health Department going forward.

He posted exterior elevations for Commission reference, noting that the proposed accessory apartment on the second floor of the barn would be less than 750 square feet and thus will be in conformance with zoning regulations.

He explained that site and building coverages, both of which are indicated on the aforementioned new survey and which are in conformance with coverage regulations, may be slightly different from the Form B data previously submitted since the new numbers were calculated based on the square footage of the Wilton property alone, and do not include the small Norwalk portion of the site.

Addressing a question from Mr. Fiteni, Mr. O'Brien stated that Mr. Jarboe's house is located almost directly opposite the barn, with approximately 70 feet between his house and the barn. Mr. O'Brien stated that the applicant has no problem with Mr. Jarboe's screening conditions as set forth in his letter of May 23, 2016, noting that the applicant has no intention of removing the existing hemlock hedge screening, or of constructing or installing anything closer than 30 feet to the property line, per setback regulations.

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#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 7:25 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Preston, Shiue, and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Poundstone noted that the hearing was continued from a previous date. Ms. Knapp referred into the record a letter dated May 10, 2016 from J. Casey Healy to Planning and Zoning Commission with attached lighting documentation.

Present were J. Casey Healy, attorney; Joe Canas, Tighe and Bond, engineer; Kate Throckmorton, landscape architect.

Mr. Healy referenced a posted site plan of the 0.795+/- acre parcel located in the General Business zone, noting that the front building was constructed in 1850 and the rear

building, which was reconstructed in 1988 after a fire, appears to have existed at least as far back as 1952, the date of the oldest field card available in the Assessor's Office. He also referenced an easement that was taken by ConnDot on the front portion of the property in November of 2002. He explained that the applicant wishes to connect the front building to the rear building via a hallway, and he noted that a commercial kennel is a permitted use per Section 29-6.B.3.d of zoning regulations. He referenced a response package dated May 4, 2016, which included modified plans.

Mr. Canas reviewed existing and proposed site plans, noting in particular that 23 parking spaces are proposed, which will meet zoning parking requirements. He stated that dog run areas will be fenced in and surfaced with canine grass, which was included in site coverage calculations; and retaining walls are proposed that will be 2.5 feet in height.

Mr. Canas reviewed proposed utilities, as well as storm water management for the site, noting in particular that peak flow off the site will not be increased as a result of the proposed site modifications, as compared to existing.

Responding to questions from Ms. Knapp, Mr. Canas explained that dog runs would not be partitioned in any way, noting that they would be more like a dog play area; and Mr. Healy did not know the anticipated hours of use of the dog runs.

In response to further questions, Mr. Healy confirmed that dogs would not be allowed in the play area without supervision, noting that a dog would be removed to the inside if there is any incessant barking. He stated that he would confirm how fecal waste would be cleaned from those areas.

Referencing the fact that over 100 runs are proposed and thus, likely, there will be over 100 dogs housed in the facility, Mr. Fiteni raised the question of sound-proofing of interior walls. Mr. Nerney recalled another such facility in Town (Dr. Satinas on Route 7) where interior soundproofing was required. Mr. Healy concurred that there would likely be over 100 dogs in the facility, but indicated that he would confirm the exact number.

Ms. Throckmorton reviewed proposed landscaping and lighting plans. She explained that existing plantings immediately around the building will be removed and replaced with smaller evergreens and perennials to add some color; screening will be provided for the transformer and dumpster area; perimeter landscaping will not change and mature trees will stay; and vinyl perimeter fencing will remain essentially as it is now except for one small portion in the northeast corner where it will be pulled back.

Ms. Throckmorton explained that two lighting plans were prepared – one which meets zoning regulations requiring a minimum of 2.5 foot-candles illumination and a second plan providing approximately one foot-candle illumination, which was her personal

recommendation for the site. She reviewed the second plan, including a 3D imaging plan, noting that existing lighting would be replaced with compact LED lights, with single lights utilized for the dog run areas in the back, all of which would be focused downward and shielded. She confirmed that no security motion lighting is proposed. Overall, she felt that the 2.5 foot-candle plan would provide more light than the site and use warrants, noting that such lighting would be more appropriate for a Stop and Shop or a Walmart shopping area. She felt that the site would not be over-lit or under-lit with the alternative, lower-lighting plan she is recommending.

Mr. Healy noted that the Commission has permitted lower lighting levels in the past when similar circumstances warranted it.

In response to additional questions, Mr. Healy stated that he would find out the hours of operation for the site; whether it will be staffed 24/7; and whether dogs will be walked along the perimeter of the property on leashes.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application.

Alan Spirer, an attorney representing Dr. Ralph Hunt, also present, stated that he and his client oppose the application. He noted the many nonconformities of the site, including its undersized acreage where 1-acre minimum is required; a nonconforming front yard; a zero-foot setback on the side yard abutting Dr. Hunt's property; and a nonconforming FAR (floor area ratio). He referenced Section 29-4.F of zoning regulations regarding Non-Conforming Structures/Uses, which stipulates that non-conformities may not be increased in any way. Citing the Zoning Board of Appeals variance case which is currently pending with the Town, he explained that the goal is to reduce nonconforming uses to conforming uses, with the understanding that there is a right to use the existing buildings without expanding them.

Mr. Spirer noted further that in order to obtain a Special Permit an applicant must show compliance with zoning regulations and if a site violates zoning regulations, a Special permit cannot be granted. He stated that even if a variance were granted, it wouldn't cure the site's inherent noncompliance with Section 29-4.F. He noted further that no hardship exists that can justify the granting of a variance in any case, including the pre-existing nature of the site or the State taking of an easement. He noted that Young's Nursery is for sale, which might lead to a different use on Young's site, and thus the proposed site modifications would have the effect of impacting a neighboring property in transition.

Mr. Spirer stated that the dogs on the subject site will be communicating with the 10+/- dogs on Dr. Hunt's property; he noted that Dr. Hunt has had to modify his dogs' exercise hours in the past to address noise concerns of his neighbors.

He summarized by asking that the Commission deny the subject application based on the foregoing arguments.

Dan and Laurel Fortin, 37 Orem Lane, stated that they just moved into their home last December. They expressed concern regarding both noise and lighting levels and the impact that the application will have on the neighborhood, referencing in particular newly renovated homes and a newly built home in the area. They expressed particular concern with the fact that their property's elevation is lower than the subject parcel which makes it likely that they will be impacted by proposed lighting for the site. They also referenced the large number of pets that will be kept on the site, expressing concern with waste run-off from the property.

Mr. Healy stated that he would look at the elevation levels prior to the next meeting. He also submitted into the record a letter granting the Commission an extension of the time required to close the hearing.

There being no further comments from the Commission or the public, at 8:05 P.M. the Public Hearing was continued until June 13, 2016.

The Commission scrambled the agenda to hear Item #4 (SP#414) prior to Item #3 (REG#16353).

4. SP#414, ASML US, INC., 77 Danbury Road, To allow an accessory parking garage

Ms. Poundstone called the Public Hearing to order at 8:05 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Preston, Shiue, and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated May 10, 2016 and referred for the record to an email sent May 17, 2016 from Jim Burke to Daphne White and Robert Nerney, a memorandum dated April 26, 2016 from Conservation Commission to Planning and Zoning Commission, and a 4-page Planning and Zoning Staff Report dated May 20, 2016.

Present were J. Casey Healy, attorney; Christopher Van Zanten of Langan Engineering; Joseph Montalbano and Jie Shu of HLW International; Scott Herrick of HLW International; Peter W. Rader of Jones, Lang LaSalle, Project Manager; and Chris Cardany of Langan Engineering.

Mr. Healy briefly reviewed the application, referencing a posted site plan, noting that the applicant, ASML, wishes to construct a 3-story parking garage on the northwest corner of the 29-acre site, adjacent to the Metro North railroad tracks. He noted that the proposed garage would be located almost entirely on an existing parking lot area. He distributed copies of a Presentation Agenda to the Commission and staff.

Mr. Van Zanten reviewed the proposed plans, noting that there would be a net increase of 306 parking spaces; current access and circulation patterns will be maintained; approximately 1600 square feet of impervious area will be eliminated to offset the proposed increase to impervious surfaces. He reviewed the proposed grading and drainage plans, including the use of rain gardens to promote infiltration and nutrient uptake and a water quality unit for roof runoff. He noted that utilities will be connected to the existing infrastructure on the site.

Addressing the proposed landscaping plan, Mr. Van Zanten stated that 8 new trees, 45 shrubs, and numerous ornamental grasses and groundcover plantings are proposed. He also noted that existing lights will be used/relocated, noting further that they will maintain existing lighting levels on the site.

Mr. Shu reviewed the architectural design and elevations of the garage, including the materials proposed, noting the applicant's attempt to achieve a more contemporary, clean and modern design, compatible with other new construction on the site. He stated that the structure will comply with building and parking setbacks, thus having minimal impact on neighbors, and would not be visible from Route 7. In response to a question from Mr. Fiteni, Mr. Shu stated that the structure would be about the same height as the adjacent building, although it will appear a little higher on the north end due to the parapet.

Mr. Rader responded to a question from Ms. Poundstone, noting that the garage would be primarily for staff since visitor parking already exists. He explained that they run three shifts, but the greatest need/challenge is during the day shift, up to around 3 PM. He noted that based upon borings conducted in that area, the proposed garage location is the best alternative, and requires a minimum of cut and fill. In response to a question from Mr. Nerney, Mr. Rader stated that ASML is in the process of negotiating two leases, including one with Our Lady of Fatima, to address the need for temporary parking while construction is ongoing.

Mr. Shu addressed snow removal for the open roof area, noting that a snow removal gate will allow snow to be pushed over and down on the north side, which will not impact lower floor levels because there will be a solid wall in that area on the lower levels.

Mr. Herrick reviewed lighting for the site, referencing the posted "Lighting Roof Plan". Concerns were raised by staff and the Commission in connection with proposed up-lighting which is prohibited by the Town. Another concern was raised in connection with the proposed internal illumination of the "ASML" sign on the western side of the garage, since internally illuminated signage is not permitted per zoning regulations.

Mr. Shu explained that low flood lights get blocked by parked cars and as a result the applicant is proposing pole lighting which will be concealed behind the parapet and thus

not be very visible from ground level.

Mr. Rader explained that 30-foot poles would be most efficient, but the applicant is attempting to be sensitive to impacts on neighboring properties while still providing adequate lighting and security on the site.

Mr. Shu reviewed lower level lighting, noting that it will be set up between the “T’s” and will thus not be visible.

Mr. Nerney explained that any additional signage on the site would require modification of the site’s existing Signage Plan, previously approved under the Town’s Alternative Signage Program.

Mr. Healy noted that the applicant will submit a written response to the Staff Report prior to the next meeting.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application.

Jim Burke, 42 Chessor Lane, referenced his previously submitted email of May 17, 2016. He reiterated his concerns, including that ASML has gotten louder over the past 11 years due to ongoing expansions; HVAC equipment used to run fairly quietly but now is noticeably louder; light pollution will increase as a result of the proposed site modifications and will intrude on neighboring properties at Chessor Lane and McFadden Drive.

He questioned whether construction will be allowed during weekend hours and whether existing noise levels in connection with HVAC equipment can be tested. He asked for clarification as to what noise levels are actually allowable per Town code. Noting that the applicant is requesting an additional 306 parking spaces, he questioned whether they will be proposing additional expansions in the future, referring in particular to future building expansions that might be proposed. He asked that the applicant and the Town do everything possible to minimize lighting impacts on surrounding properties, noting that the Middlebrook School application was denied based on lighting.

In response, Mr. Nerney noted that Special Permits can regulate hours of construction on a site.

Mr. Burke added the following comments, noting that cars will continue to drive around back to access the proposed garage, accelerating as they travel up the garage ramps, adding to noise issues; the proposed illuminated ASML building sign on the western side is unnecessary since only the neighbors will be able to see it; the impact of the proposed site modifications, while not considered “huge” per the applicant’s comments, will still

be large and invasive, resulting in negative impacts on property values on the western side of the site.

Mr. Nerney believed a noise study was done some years back. He stated that the Commission might want to ask the applicant if it would be amenable to measuring noise levels at the property line.

Mr. Healy took note of the request.

Mr. Lawrence asked for information regarding the height of the existing light poles on the property.

In response to a question from Ms. White, Mr. Herrick confirmed that there would be no upward-spilling light and he indicated that shields could be provided if desired.

Mr. Nerney asked whether shields could be installed along the west side as well to reduce spillage.

Mr. Rader stated that the applicant would try to be a good neighbor with respect to the issues raised.

Ms. White asked if the applicant had considered installing additional plantings near the railroad tracks. She thought it would be beneficial if the applicant took another look at that area to the west to provide additional landscaping/screening. Mr. Nerney added that the applicant might want to contact Eversource because of the power line in the area.

There being no further comments from the Commission or the public, at 9:03 P.M. the Public Hearing was continued until June 13, 2016.

3. 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

Ms. Poundstone called the Public Hearing to order at 9:03 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Preston, Shiue, and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated May 10, 2016 and referred for the record to a 2-page Planning and Zoning Staff Report dated May 9, 2016; and a memorandum dated April 13, 2016 from Jonathan Chew, Western CT Council of Governments to Robert Nerney, with attached email sent April 12, 2016 from Robert Nerney to Jonathan Chew.

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

Mr. Healy explained that I-Park would like to permit hotels in Town by way of a Special Permit, noting that although zoning regulations include a definition for hotel/motel, they don't seem to be permitted anywhere by way of regulation. He noted further that the applicant wishes to modify the definition of "story" in the zoning regulations to make it clear that levels of a parking garage/structure don't constitute a story; and is proposing reduction of building and parking setbacks where adjoining property in a residence district lies within the right of way of a railroad, and where the railroad property adjoins a public utility right of way and/or a publicly owned right of way; and is proposing an increase in maximum building height from 39 feet/3 stories to 55 feet/4 stories.

He noted that the greater building height (i.e. 4-stories/55 feet) would only be permitted on lots that are in conformance with minimum area and dimensional requirements for both zones.

Mr. Healy submitted into the record responses dated May 23, 2016, including a 4-page planning memorandum dated May 17, 2016 from David Schiff, AICP to Planning and Zoning Commission. He noted that Mr. Schiff was unable to attend this evening but will be here for the next meeting on June 13, 2016.

In response to a question from Ms. Knapp, Mr. Healy explained that the proposed increase in height requirements is because the existing requirement of 39 feet/3 stories does not meet today's standards for separation between floors; and because the allowance of 4 stories would be much more attractive to developers, owners and tenants. He noted that there are not that many parcels in Town that would be eligible for the new guidelines, and all such parcels are listed in the aforementioned memorandum from Mr. Schiff.

Mr. Fiteni pointed out that the applicant is actually making two separate requests. He noted that 3 stories would require a 45-foot height if, in fact, 15 feet are required between floors; and the applicant is asking for 4 floors with a 55-foot height, which would appear to be less than what would be required for 4 floors (i.e. 60 feet) under these guidelines.

Mr. Healy stated that he would get some clarification and provide the Commission with the height requirement for a 3-story building per today's standards.

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 9:22 P.M. the Public Hearing was continued until June 13, 2016.

REGULAR MEETING

A. Ms. Poundstone called the Regular Meeting to order at 9:22 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Preston, Shiue, and Tomasetti, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. May 9, 2016 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Mr. Tomasetti, and carried (7-0) to approve the minutes of May 9, 2016 as amended.

C. SITE DEVELOPMENT PLAN REVIEW

1. SDP, State of CT 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 NRVV trail system.

Tabled until July 11, 2016 at the request of the applicant.

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

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

The Commission requested that staff draft a resolution for vote at the next meeting, incorporating conditions as discussed in the previous hearings.

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

Tabled.

- 3. 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**

Tabled.

- 4. SP#414, ASML US, INC., 77 Danbury Road, To allow an accessory parking garage**

Tabled.

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. SP#415, Arthur, 39 Powder Horn Hill Road, To allow establishment of an accessory dwelling unit [P. H. June 13, 2016]**
- 2. Discussion regarding age-restricted housing [July 11, 2016]**
- 3. SP#416, Sound Management Group, 21 Trail's End Road, To allow an accessory dwelling unit [P.H. June 27, 2016]**

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Ms. Preston, and carried unanimously (7-0) to adjourn at 9:34 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary