

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

WILTON PLANNING & ZONING COMMISSION MINUTES JUNE 13, 2016 REGULAR MEETING

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

ABSENT: Scott Lawrence, Keith Rodgerson (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#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 7:15 P.M. A moment of silence was observed for the victims of the Orlando, Florida shootings.

Ms. Poundstone then seated members Fiteni, Knapp, Poundstone, Preston, Shiue, Tomasetti, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date. Ms. Knapp referenced into the record a 4-page letter of response dated June 9, 2016 from J. Casey Healy to Planning and Zoning Commission, and a 4-page letter dated June 13, 2016 from Alan R. Spirer to Planning & Zoning Commission.

Ms. Knapp also referenced a letter dated June 13, 2016 from J. Casey Healy to Planning and Zoning Commission requesting a continuation of the ASML US, Inc. hearing (SP#414) to June 27, 2016. She advised members of the audience that the application would therefore not be heard this evening.

Present were J. Casey Healy, attorney; Alexander Desmarais, Chairman/Owner, Best

P&Z Minutes – 06/13/16 – Page 2

Friends Total Pet Care; Joe Canas, Tighe and Bond.

Mr. Healy referenced his letter of response dated June 9, 2016 and briefly reviewed all comments/questions raised during the previous public hearing, i.e. items #1-10; including hours of operation, waste management, soundproofing, lighting, etc. He also referenced a submitted spec sheet from ForeverLawn Inc. pertaining to the K9 Grass proposed for the dog run areas of the property.

Addressing some of the issues raised in Attorney Spierer's letter dated June 13, 2016, Mr. Healy stated that nonconformities will not be expanded, noting that the applicant has applied for variances to address all nonconformities. He noted that existing parking nonconformities will be reduced via removal of 9 existing spaces and reconfiguration of the remaining spaces, and he confirmed that site coverage does include the outdoor play areas.

Addressing the issue of dog barking/communicating also raised in Attorney Spierer's letter, Mr. Desmarais stated that their dog handlers are experienced with such issues, noting that barking dogs are immediately brought inside the facility. He noted that they have facilities across the United States, one of which is approximately 30 yards from a gated community, and they have not yet received one such barking complaint.

Addressing comments made at the last hearing by residents of 37 Orem Lane, Mr. Healy stated that landscape architect Kate Throckmorton looked at their property, noting that it is approximately 380 feet from the rear of the proposed facility and thus will not be impacted by lighting from the site. He noted further that a row of evergreens approximately 30 feet in height will provide additional screening for the site.

Responding to further questions from the Commission, Mr. Desmarais explained that waste will be removed via a very large toilet located at the center of the back building and it will be funneled into a sewer. He noted that the system was designed by an architect with a great deal of experience with waste management.

Ms. Knapp asked for further clarification about the diluted urine that will be filtered through the K9 Grass areas and what the potential impacts will be on abutting wells. Mr. Desmarais explained that the urine will seep through the soil. He noted that the company has been in operation for 20 years and has never received any complaints in that regard. Mr. Healy noted further that abutting neighbor Young's Nursery is on public water, not a private well.

Mr. Canas explained that the State of Connecticut Public Health Code requires a 75-foot separating distance from wells and he noted that there are no wells located within that required separating distance.

P&Z Minutes – 06/13/16 – Page 3

Mr. Fiteni expressed concern that Young's Nursery site, currently on the market and zoned residential, could someday be subdivided and private wells may potentially be located within that regulated area.

In response to a question from Mr. Wong, Mr. Canas stated that all drainage will be above the ground water level, which he indicated was at least 7-8 feet down. Mr. Fiteni expressed further concern with the shallowness of the ground water.

Ms. Preston questioned where Young's runoff from fertilizers/chemicals has been going over the years, noting that it has possibly been a worse situation than the potential urine runoff will be.

Mr. Desmarais noted for the record that you never read about local contamination due to the presence of a dog park in an area, nor has Best Friends ever had an issue with such contamination to date.

Mr. Healy noted further that the proposed toilet will go before the Water Pollution Control Authority as well.

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

Attorney Alan Spiner, representing adjoining property owner Ralph Hunt, referenced his aforementioned letter dated June 13, 2016. Addressing the issue of a proposed FAR (floor area ratio) increase on the site, he referenced Section 29-4.F of zoning regulations, noting that the applicant is proposing additional structures, which will raise the already nonconforming FAR even higher. He stated that even if the variances that are being sought are granted, a Special Permit cannot be approved since Special Permits require compliance with every regulation. He noted that the applicant is not seeking a variance of Section 29-4.F and could not get such a variance even if it did.

Regarding the issue of barking dogs and noting that he is a dog owner himself, he did not believe anyone, no matter his/her expertise, could keep over 100 dogs quiet.

He noted that Dr. Hunt's property is located immediately adjacent to the subject site and since both Dr. Hunt's property and Young's Nursery site will likely be sold in the near future, the subject property is a key parcel. He asked that the application be denied for all of the aforementioned reasons.

There being no further comments from the Commission or the public, at 7:45 P.M. the Public Hearing was continued until June 27, 2016.

2. REG#16353, I Park Norwalk II, LLC, Amend Sections 29-2.B.152, 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 7:45 P.M., seated members Fiteni, Knapp, Poundstone, Preston, Shiue, Tomasetti, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date. Ms. Knapp referred for the record to a 2-page response letter, with attachments, dated June 13, 2016 from J. Casey Healy to Planning and Zoning Commission.

Present were J. Casey Healy, attorney; David B. Schiff, Planner, Vanasse Hangen Brustlin, Inc.; and Lynne Ward, National Resources.

Mr. Healy noted that the applicant submitted some revisions to the proposed amendments after conversations with Town Planner Nerney and Assistant Planner White. He referenced his response letter dated June 13, 2016 which noted said revisions. He also referenced a submitted list of properties that would be impacted by the proposed revisions, noting that only 8 out of the 50 properties are in conformance with minimum area requirements for the DE-5 and DE-10 zones and thus would qualify for the proposed 4-story, 55-foot height. As far as parking regulations for a hotel use, he explained that such regulations would have to be the subject of a future application since they weren't legally noticed as part of the subject application.

Mr. Healy reviewed industry standards to explain how the proposed 55-foot height was calculated, noting that 15 feet are generally allotted for a first floor lobby, and 8-12 feet for every floor above that. Given that methodology, he stated that the applicant would be willing to reduce its proposed maximum height to 4 stories/51 feet. Mr. Fiteni stated that he was comfortable with the 51-foot height.

Mr. Nerney noted that he had done some independent research on the matter himself and discovered articles confirming Mr. Healy's representations. He explained that the need goes beyond accommodating HVAC equipment, noting that there are generally more building occupants in today's environment and privacy is made up by vertical increases versus horizontal.

Mr. Schiff concurred, noting that the applicant is making an effort to satisfy market demands while still respecting the Town's desires/standards.

Mr. Tomasetti felt that 55 feet would work better from an architectural standpoint, noting that a foot can make a big difference in design. He felt that the perspective from the ground would not be significantly different in either case, especially on the larger parcels where such structures would be built.

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

A question was raised about fire safety with respect to the taller buildings. Mr. Healy explained that a fire truck has at least a 100-foot reach and thus the proposed 55-foot height would not present a problem.

Lynn Ward thanked Mr. Nerney for all his help and research on the matter.

There being no further comments from the Commission or the public, at 8:03 P.M. the Public Hearing was closed.

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

Application was continued until June 27, 2016 at the request of the applicant.

4. SP#415, Arthur, 39 Powder Horn Hill Road, To allow establishment of an accessory dwelling unit

Ms. Poundstone called the Public Hearing to order at 8:03 P.M., seated members Fiteni, Knapp, Poundstone, Preston, Shiue, Tomasetti, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated May 31, 2016 and she referred to a 2-page Planning and Zoning Staff Report dated June 8, 2016; a memorandum dated June 13, 2016 from Jenifer M. Zbell to Bob Nerney/Daphne White; a letter of objection dated June 13, 2016 from Robert C. Coleman and Susan Courtemanche; and a 3-page response letter dated June 13, 2016 from J. Casey Healy to Planning and Zoning Commission.

Mr. Healy reviewed details of the application, referencing an as-built site plan dating back to July, 2000. He noted that the main residence in the front of the 2+-acre parcel was built in 1955 and the detached cottage at the rear was built in 1957. He explained the applicant's intention to use the 426 square-foot cottage, which has 1 bedroom, a full bath and kitchen, as an accessory dwelling unit.

Mr. Healy briefly reviewed the requirements for accessory dwelling units as per Section 29-4.D.1 of zoning regulations, noting that the applicant complies on all counts. He stated that a new septic plan for the cottage was submitted to and approved by the Health Department, subject to Inland Wetlands approval. He explained that if an Inland Wetlands permit is required, the applicant will apply as required.

Mr. Healy addressed issues raised in the Planning and Zoning Staff Report of June 8, 2016, including a question of coverage and setbacks. He stated that the applicant believes the 2000 site plan to be accurate, and has confirmed that no other accessory dwelling units exist on the site.

Mr. Nerney expressed some confusion/concern about the submitted plan, noting that it appears to have been based on a survey done in 1955 although it was stamped by an architect in 2000; and it is difficult to ascertain the genesis of the comments. Mr. Healy stated that the applicant can submit an updated survey demonstrating conformance, as a condition of any approval, noting further that they can also try to locate the actual survey from 1955 in the Town Hall archives or from Leo Leonard's files. He confirmed that coverages will be updated as well.

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

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

REGULAR MEETING

- A.** Ms. Poundstone called the Regular Meeting to order at 8:20 P.M., seated members Fiteni, Knapp, Poundstone, Preston, Shiue, Tomasetti, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. May 23, 2016 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Ms. Preston, and carried (6-0-1) to approve the minutes of May 23, 2016 as drafted. Mr. Wong abstained.

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.

D. ACCEPTANCE OF NEW APPLICATIONS

- 1. REG#16354, Parks and Recreation Commission, Amend Section 29-9.E of zoning regulations pertaining to temporary/portable lighting**

A Public Hearing was scheduled for July 11, 2016.

- 2. SUB#916, LTWJ, LLC, Cannon Road, 8-lot subdivision**

A Public hearing was tentatively scheduled for July 25, 2016, with the understanding that Town Planner Nerney will discuss other scheduling options with the applicant prior to that date.

E. PENDING APPLICATIONS

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

The Commission reviewed Draft resolution #0616-5P.

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried (6-0-1) to adopt as drafted Resolution #0616-5P for SP#412, effective June 16, 2016. Mr. Wong abstained.

WHEREAS, the Wilton Planning and Zoning Commission has received a Special Permit **SP#412** application from Kevin E. O'Brien for approval of the establishment of a 743 square-foot accessory dwelling unit, property located at 50 Grumman Avenue; in a Residential "R-1A" District, Assessor's Map #54, Lot #2, consisting of 1.574 acres, owned by Mark and Laura Smith and shown on the plans entitled:

Map of Property- Prepared for Anthony Stefani, Prepared by Dennis A. Deilus, land surveyor, dated December 13, 1985, revised December 31, 1986, drawn at a scale of 1" = 40'-0".

Zoning Location Survey, Prepared for Mark L. Smith and Laura Smith, Prepared by Mark D. Lyttle, land surveyor, dated May 18, 2016, drawn at a scale of 1"=20'.

Existing Second Floor, Proposed Layout, Prepared for Smith Residence, Prepared by Mercer Construction, contractors, dated February 15, 2016, drawn at a scale of 1/4"=1'-0", sheet #2 of 5.

Existing Exterior Elevations, Prepared for Smith Residence, Prepared by Mercer Construction, contractors, dated February 15, 2016, drawn at a scale of 1/4"=1'-0", sheet #3 of 5.

P&Z Minutes – 06/13/16 – Page 8

WHEREAS, the Wilton Planning and Zoning Commission has conducted a public hearing on April 11, 2016, April 25, 2016 (continued), May 9, 2016 (continued) and May 23, 2016 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

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

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** Special Permit #412 to allow for the establishment a 743 square-foot accessory dwelling unit, for property located at 50 Grumman Avenue, effective June 16, 2016 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 Government of the United States. 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 plan shall be completed within five years of the effective date of this resolution. This five-year period shall expire on June 16, 2021.
3. The applicant shall file a Land Record Information Form with the Town Clerk (form to be provided by the Planning and Zoning Department) prior to the issuance of a zoning permit.
4. Prior to the issuance of a zoning permit, the applicant shall demonstrate full compliance with additional requirements and/or standards set forth by the Wilton Health Department.
5. The proposed accessory dwelling unit shall comport with the architect's submitted floor plans and shall not exceed 743 square feet of living space.
6. Prior to the issuance of a zoning permit, the applicant shall modify Form B to reflect the square footage of the proposed accessory dwelling unit to match the square footage noted in the submitted floor plan.
7. All above-ground mechanical equipment for the accessory dwelling unit shall be located on the northerly side of the accessory dwelling unit.
8. Lighting on the southerly and westerly sides of the accessory dwelling unit shall be limited to not more than one exterior light per building elevation; unless otherwise superseded by the State Building Code.

9. Visual screening shall be maintained along the southerly and westerly property lines.

Submittal of revised plans and application:

10. 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. 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. "Pursuant to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Special Permit shall be completed within five years after the approval of the plan. Said five-year period shall expire on June 16, 2021."
- b. "For conditions of approval for Special Permit #412, see **Resolution #0616-5P.**"

-END RESOLUTION-

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, 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**

The Commission briefly reviewed Draft Resolution #0516-3REG.

MOTION was made by Ms. Preston, seconded by Ms. Knapp to adopt as drafted Resolution **#0516-3REG** for **REG#16353**, effective June 16, 2016.

Further discussion ensued prior to a vote.

Mr. Fiteni expressed concern with the proposed modifications to Section 29-7.D.7 involving a reduced rear yard building and parking setback of 10 feet.

Ms. Knapp expressed further concern that the proposed zoning modifications were

written with a specific property in mind, which Mr. Fiteni found troubling as well.

In response to a question from Mr. Tomasetti as to whether these concerns were related to issues of setback/bulk or of fire safety/access, Mr. Fiteni stated that his concerns were related to both. Mr. Tomasetti did not feel there was an issue on either count, noting that any application would always be subject to a site plan review and would be specifically referred for Fire Marshal review.

The motion passed (5-2-0), with Commissioners Fiteni and Knapp opposing.

WHEREAS, the Wilton Planning and Zoning Commission accepted application #16353 involving amendments to Sections 29-2.B.152, Section 29-7.B.2., Section 29-7.C.2., Section 29-7.D.7., and Section 29-7.E.5. of the Zoning Regulations of the Town of Wilton, for the purpose of allowing hotels within DE-5 and DE-10 Districts, modification to area and bulk requirements within such districts, and further defining the term “Story”; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on May 23, 2016 and June 13, 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 #16353, effective June 16, 2016, as follows:

29-2.B. DEFINITIONS:

152. STORY: That portion of a building including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it with the exception that the levels of a parking garage or a parking structure shall not count as a story but the height of the parking garage or parking structure shall comply with the maximum height regulations for the zoning district in which the parking garage or parking structure is located. A basement shall be counted as a “story” if its ceiling is more than five feet above the elevation from which the height of the building is measured.

29-7.B.2. Special Permit Uses:

s. Hotels.

29-7.C.2. Special Permit Uses:

1. Hotels.

29-7.D. GENERAL REQUIREMENTS FOR ALL DESIGN ENTERPRISE DISTRICTS

7. Where adjoining property in a residence district to the side or rear lies within the right-of-way of a railroad, the side or rear yard setbacks may be reduced to 50 feet. Where adjoining property in a residence district to the side and rear 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 with a total width of not less than 200 feet, the side and rear yard building setbacks and the parking setbacks may be reduced to 10 feet.

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

- | | | |
|---|--------------|-------------|
| | <u>DE-10</u> | <u>DE-5</u> |
| 5. Maximum Building Height (Stories/Feet) | 3/39 (b)(c) | 3/39 (b)(c) |

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

(c) A 4 story and/or 55 foot high building may be located on lots that are in conformance with minimum area requirements of the DE-10 or DE-5 district. They shall not be permitted by action of the Zoning Board of Appeals.

- END RESOLUTION -

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

Tabled.

5. **SP#415, Arthur, 39 Powder Horn Hill Road, To allow establishment of an accessory dwelling unit**

Staff was directed to prepare a draft resolution of approval for vote at the next meeting.

F. COMMUNICATIONS

1. Bregman-Burba, Consideration of peacock pets

Mr. Nerney referenced a letter dated May 23, 2016 from Lisa Bregman-Burba to Planning & Zoning requesting consideration of allowing peacocks as pets. Mr. Nerney explained that Wilton’s zoning regulations are “permissive”, meaning that if something is not expressly stated as permitted, then it is prohibited; and he noted that peacocks are not expressly listed in the regulations. He also noted that peacocks can be loud, especially during the mating season. It was specifically noted that the applicant plans to keep two male peacocks as pets and does not intend to breed peacocks.

Members of the Commission questioned whether they have authority over such a matter. Discussion ensued and the general consensus was that the Commission does not have jurisdiction as to whether peacocks can be kept as pets.

MOTION was made by Ms. Knapp, seconded by Ms. Preston, and carried (6-0-1) that the Commission does not have jurisdiction in this matter, i.e. as to whether peacocks can be kept as pets. Mr. Tomasetti abstained.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

Mr. Nerney referenced his memorandum to the Commission dated June 2, 2016 which included draft language for age restricted housing regulations. He suggested that Commissioners review the materials, with a specific view towards whether a separate zoning designation should be considered as opposed to allowing such use by special permit in residential zoning districts; and whether other multi-family arrangements should be considered in addition to the single family and duplex arrangements proposed in the draft.

Mr. Nerney explained that the Town is establishing a policy whereby it will be creating email addresses for all Board/Commission members to avoid use of personal emails. He noted that such an arrangement makes it easier for the Town in cases of deposition or FOI (Freedom of Information) issues so that personal computers would not be involved in potential court cases, but he cautioned that Commissioners would have to be especially

wary of conversations that could be considered ex parte communication. He stated that he wished to speak with the administration and perhaps also Town Counsel regarding the matter.

Mr. Wong raised some concerns regarding the wording of the Town's accessory dwelling unit regulations, although other Commissioners did not seem to share his concern. After a brief discussion, Ms. Poundstone asked that Mr. Nerney give some further thought to the concerns raised by Mr. Wong.

I. FUTURE AGENDA ITEMS

- 1. SP#416, Sound Management Group, 21 Trails End Road, To allow an accessory dwelling unit [P.H. June 27, 2016]**
- 2. Discussion regarding age-restricted housing [July 11, 2016]**

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Ms. Preston, and carried unanimously (7-0) to adjourn at approximately 9:10 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary