

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 JUNE 27, 2016 REGULAR MEETING

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

**ABSENT:** Andrea Preston, Keith Rodgerson (notified intended absences)

### ALSO

**PRESENT:** 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. She advised Commissioners that Keith Rodgerson was resigning from the Commission due to a professional change.

Ms. Poundstone then seated members Fiteni, Knapp, Lawrence, Poundstone, 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 2-page letter dated June 17, 2016 from Joseph Canas (Tighe & Bond, Inc.) to J. Casey Healy; and 4-page letter dated June 13, 2016 from Alan R. Spierer to Planning & Zoning Commission [which had also been entered into the record on June 13, 2016].

Present were J. Casey Healy, attorney; Joe Canas, engineer, Tighe & Bond; Alexander Desmarais, Chairman/Owner, Best Friends Total Pet Care.

Mr. Healy noted for the record that on June 20<sup>th</sup>, the Zoning Board of Appeals (ZBA)

granted the applicant a Floor Area Ratio (FAR) variance of 0.368, where 0.35 is the maximum permitted, but denied a rear building setback for an outdoor staircase. As a result, he explained that the applicant has since revised its proposed site plan to relocate the stairs to the interior of the building, thus reducing the number of proposed dog suites from 118 to 116.

Mr. Healy submitted into the record a response package dated June 27, 2016, including the aforementioned revised site plan and letter from Tighe & Bond, as well as a “Pet Waste Discharge Treatment” graphic.

Mr. Canas reviewed his June 17<sup>th</sup> letter to Mr. Healy, noting in particular that:

- there is sufficient capacity in the existing on-site sewer lateral to dispose of solid waste;
- the volume of liquid urine waste for the facility at maximum dog capacity will be significantly less than the average wastewater production of a person;
- the site will meet the CT Public Health Code requiring a 75-foot separation from water supply wells and a 15-foot distance from property lines for septic system discharges;
- the concentration of nitrogen leaving the dog play area will be less than the maximum without pretreatment allowed by DEEP;
- the nitrogen concentration will not adversely impact groundwater nor will washing of the K9 grass increase groundwater elevations.

Mr. Canas referenced the aforementioned “Pet Waste Discharge Treatment” graphic to provide further clarification.

Mr. Healy noted that application will be made to the Water Pollution Control Authority, which will also confirm the capacity/adequacy of the proposed system.

Addressing neighbor concerns with runoff, lighting and noise, Mr. Healy stated that there will be no waste runoff or impact on nearby wells; there will be no negative lighting impacts due to the distance of the subject site from residential properties in the rear; unshielded spot lights on the rear building will be replaced with shielded LED wall lights; dog suites/indoor play areas will be soundproof and thus resulting sounds will not be discernible at property lines; and outside play areas will not be utilized after 5 PM.

Ms. Knapp asked for clarification as to how removal of a barking/misbehaving dog would be accomplished; in particular, who would be monitoring the remaining dogs while a handler removes a barking dog to the inside. Mr. Desmarais explained that their staff is very well trained and experienced, noting that they go through apprenticeship programs and internal proprietary certification. He stated that there are typically two handlers with the higher energy dog breeds and he emphasized that neighbors will not be impacted in any way since the environment will be similar to a dog park, with not much barking.

Mr. Healy noted further that Dr. Hunt's Animal Hospital, adjacent to the subject property, has a number of outdoor dog runs as well, emphasizing that this is not a new business to the area.

In response to a question from Mr. Lawrence regarding existing encroachments on the site, Mr. Healy stated that the applicant would take care of all existing encroachments.

In response to a second question from Mr. Lawrence regarding the possibility of litigation in connection with the FAR variance recently granted by the ZBA, Mr. Healy stated that there is no need for the Planning and Zoning Commission to hold off on its decision, noting that pending ZBA litigation would not act as a stay to the granting of a Special Permit. He explained that the applicant would likely have to change its site plan if the FAR variance is litigated successfully by the opponent.

Mr. Healy also confirmed for the record that the K-9 grass area was included in site coverage calculations.

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

Alan Spierer, attorney for Dr. Ralph Hunt, stated that his client opposes the application. He reiterated his position that Section 29-4.F of zoning regulations would be violated if this Special Permit were granted. He advised the Commission that he did submit an appeal of the Zoning Board of Appeals decision to grant an FAR variance. He acknowledged that it would not stay the subject application, as indicated by Mr. Healy, but he noted that it would create a great deal of uncertainty for both the applicant and the Commission. He stated that the subject application should be denied because all activity will impose on Dr. Hunt's property, including the buildings and the dog runs which will be on the common boundary. He stated that the application would not be in harmony with Dr. Hunt's property, which may not remain a kennel going forward.

Mr. Spierer compared Dr. Hunt's use of his property with the applicant's proposed use, noting that Dr. Hunt's facility is a veterinary clinic, not a doggy hotel, and Dr. Hunt's dogs are exercised one-by-one, not en masse.

Dr. Ralph Hunt explained dog behavior, noting that just hearing another dog can precipitate barking. He stated that he has independent runs which are cleaned three times per day and which have concrete walls so that dogs cannot see other dogs in adjacent runs. He noted that the applicant's proposed dog run area is immediately adjacent to his property and thus the dogs will communicate with his dogs when they are outside, creating a chorus of sounds that he won't be able to do much about; referring in particular to complaints from Our Lady of Fatima Convent that he has received in the past and has

had to address. He stated that he has a maximum of 9 dogs at any given time, and they are exercised outside three times per day.

Dan and Laura Fortin, 37 Orem Lane, expressed opposition to the application. Mr. Fortin explained that they moved in December and were shocked to learn that this type of business was being proposed so close to a neighborhood area. He expressed ongoing concerns with lighting impacts and decibel levels when the dogs are outside, noting as well the small number of handlers that would be employed. He cited discrepancies in the applicant's testimony regarding the number of handlers anticipated for the site. Mr. Fortin also expressed concern with runoff, particularly in connection with their very shallow well. He noted that nitrogen is not the only ingredient in dog waste, citing uric acid, ammonia, urea, etc. He stated that they would like to see this neighborhood grow and be able to continue to enjoy it, noting that they would not have moved into the neighborhood had they known about the proposed dog runs so nearby.

Ms. White asked that the applicant submit a revised Form B data sheet indicating an FAR calculation that corresponds to the ZBA variance that was granted. Mr. Healy agreed.

Ms. Knapp asked for additional information regarding chemicals other than nitrogen that will leach into the ground. In that same regard, Ms. Poundstone asked about potential impacts of prescription medications that dogs might be taking. Mr. Healy agreed to provide additional documentation as requested.

Mr. Fiteni noted that the applicant's assurance regarding the 75-foot protected well radius applies only for the neighborhood as it exists currently, referring in particular to the anticipated sale of Young's Nursery property.

Another issue was raised by Mr. Spirer regarding the 75-foot well separating distance and whether/how potential surface contamination figures into that figure. Mr. Canas explained that K9 grass is a proprietary porous surface product, designed such that everything seeps downward. Mr. Fiteni questioned the permeability of the K9 grass, noting that the Commission needs to understand the permeability factor better to confirm that seepage will go down and not out across the ground surface. The applicant agreed to provide said data.

Ms. Poundstone stated that she would like an opinion from Town Counsel with respect to the Section 29-4.F issue raised by Mr. Spirer in his letter and testimony.

Mr. Wong asked whether there are any Connecticut regulations regarding ongoing maintenance requirements for kennels. He also stated that he would like proof of ongoing maintenance and testing going forward if the application is approved.

Mr. Tomasetti recounted what appeared to be the primary concerns with the application,

namely runoff and noise. He expressed concern that the Commission does not have any expert testimony to confirm, and with which to make a decision, as to whether there will in fact be excessive noise, what the decibel levels might be, whether adequate handlers will be available to attend to the dogs, etc.

Mr. Fiteni noted that modeling can be utilized to address the issue of noise.

Mr. Healy entered into the record a letter granting the Commission an extension until July 11<sup>th</sup> to keep the public hearing open.

There being no further comments from the Commission or the public, at 8:15 P.M. the Public Hearing was continued until July 11, 2016.

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

Ms. Poundstone called the Public Hearing to order at 8:15 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Shiue, Tomasetti, and Wong, 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 7-page response letter dated June 24, 2016 from J. Casey Healy to Planning and Zoning Commission.

Present were J. Casey Healy, attorney; Chris Van Zanten, engineer; and Peter Rader, project manager.

Mr. Healy referenced a posted aerial of the site and reviewed details of the application to construct a 3-story parking garage on the northwest portion of the site. He noted that Inland Wetlands had closed the hearing and approved the application. He reviewed his (aforementioned) response document dated June 24, 2016, including details pertaining to negotiated temporary parking, rooftop snow clearing, rooftop and site lighting, the issue of fire suppression/sprinklers, site and building coverages, stabilization of the northeast retaining wall, landscaping, and addition of a crosswalk. He also noted that signed/sealed copies of documents will be provided as requested.

A discussion ensued regarding a noise issue raised by a neighboring property owner, Mr. Burke, at one of the previous hearings, who complained that the rooftop units appeared to be getting noisier with age. Mr. Healy noted that a decibel measurement of 47 was previously calculated during daytime hours where 85 decibels are actually allowed; thus confirming that the noise level is very low. Mr. Rader stated that another noise analysis could be conducted to confirm compliance once the garage is installed, if the Commission so desires. He stated that the applicant could also check into the age of the existing

rooftop units.

Ms. White questioned whether a more drought-tolerant tree had been considered within the landscaping design other than the proposed dogwood. Mr. Van Zanten explained that Eversource has fairly strict oversight with respect to what can be planted since the area is within the wire zone, although he indicated that the applicant would take another look to determine if perhaps some tree-like shrubs that are more drought-tolerant might be able to be substituted, such as the shadblow (amelanchier).

An issue was also raised by Mr. Wong about a gravel area in the southwest quadrant of the site. He believed that ASML had previously discussed making that area more environmentally friendly. Staff was asked to check into the matter to confirm whether the applicant had in fact made any representations to that effect.

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 8:48 P.M. the Public Hearing was closed.

**3. SP#416, Sound Management Group, 21 Trails End Road, To allow an accessory dwelling unit**

Ms. Poundstone called the Public Hearing to order at 8:48 P.M., seated members Fiteni, Knapp, Lawrence, Poundstone, Shiue, Tomasetti, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated June 14, 2016 and referred into the record a 2-page Planning and Zoning Staff Report dated June 17, 2016 and a 3-page response letter dated June 23, 2016 from J. Casey Healy to Planning and Zoning Commission.

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

Mr. Healy reviewed details of the application, noting that the site consists of 5+ acres with a principal residence and an existing detached pool house, which contains a full bath but no bedroom or kitchen. He noted that the site complies with all of the requirements of Section 29-4.D.1 of zoning regulations for accessory dwelling units. He noted in particular that the original submitted Form B was subsequently modified to reflect an accessory dwelling unit total of 770 square feet, which includes a basement of 440 square feet.

Mr. Healy reviewed Staff Report comments, referencing in particular comment #1 pertaining to possible encroachments into the regulated setback. Mr. Healy stated that the

wood deck appears to be a part of the pool/patio area and not a part of the pool house itself. Referencing the submitted plan, he noted that the porch appears to be setback at approximately 51.6 feet when scaled out, i.e. greater than the 50 feet required, although he noted that it has been more than 3 years since the pool house was constructed in 2009.

After some further discussion, it was the general consensus of the Commission that the afore-noted dimension, as scaled out, does satisfy the setback requirement of 50 feet and thus does not represent an impediment to approval of the pool house as an accessory dwelling unit, as requested.

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 9:00 P.M. the Public Hearing was closed.

## **REGULAR MEETING**

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

### **B. APPROVAL OF MINUTES**

#### **1. June 13, 2016**

**MOTION** was made by Ms. Knapp, seconded by Mr. Tomasetti, and carried (6-0-1) to approve the minutes of June 13, 2016 as drafted. Mr. Lawrence abstained.

### **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 NRVV trail system.**

Tabled until July 11, 2016.

**D. ACCEPTANCE OF NEW APPLICATIONS**

- 1. SP#417, Palmer-Smith, 320 Cannon Road, To allow an accessory dwelling unit**

The Commission scheduled the Public Hearing for September 12, 2016, with the understanding that the applicant granted the Commission an extension of the time required to open the hearing.

**E. PENDING APPLICATIONS**

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

Tabled.

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

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

Staff was also reminded to look into the previously raised question of the gravel parking area in the southwest corner of the site.

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

The Commission reviewed Draft Resolution #0616-8P.

MOTION was made by Mr. Tomasetti, seconded by Ms. Knapp, and carried unanimously (7-0) to adopt as drafted Resolution #0616-8P for SP#415, effective June 30, 2016.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a Special Permit SP#415 application from David J. and Ann S. Arthur for approval of the establishment of an 426 square-foot accessory dwelling unit, for property located at 39 Powder Horn Hill Road; in a Residential “R-2A” District, Assessor’s Map #45, Lot #48, consisting of 2.28 acres, owned by David J. and Ann S. Arthur and shown on the plans entitled:

Map of Lots 33-45- Prepared for Powder Horn Hill Inc., Prepared by Leo Leonard, Jr., engineer



**P&Z Minutes – 06/27/16 – Page 9**

and surveyor, dated April 27, 1954, drawn at a scale of 1" = 100'.

As Built Site Plan- Prepared for Edward & Valerie Weed, Prepared by R. Kris Barthelme, architect, dated July 20, 2000, drawn at a scale of 1" = 40'-0".

**WHEREAS**, the Wilton Planning and Zoning Commission has conducted a public hearing on June 13, 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 #415 to allow for the establishment an 426 square-foot accessory dwelling unit, for property located at 39 Powder Horn Hill Road, effective June 30, 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 30, 2021.
3. Prior to the issuance of a Zoning Permit, an updated survey confirming compliance with property line setback requirements shall be submitted to the Planning and Zoning Department.
4. The applicant shall file a Land Record Information Form with the Town Clerk (form to be provided by the Planning and Zoning Department). Said form shall be filed following the completion and Town-review of an updated property survey and before the issuance of a zoning permit.
5. Prior to occupancy, the applicant shall obtain a Zoning Permit and a Zoning Certificate of Compliance from the Planning and Zoning Department and, if deemed necessary, a Certificate of Occupancy from the Building Department.
6. The septic system serving the accessory residence shall be updated to comply with State Health Code requirements. Said improvements shall be completed to the satisfaction of the

Town Health Department and completed prior to the issuance of a Zoning Certificate of Compliance from the Planning and Zoning Department.

**Submittal of revised plans and application:**

7. 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 30, 2021."

- b. "For conditions of approval for Special Permit #415, see **Resolution #0616-8P.**"

-END RESOLUTION-

- 4. SP#416, Sound Management Group, 21 Trails End Road, To allow an accessory dwelling unit**

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

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN**

- 1. Reports from Committee Chairmen**

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

- 1. Discussion regarding age-restricted housing [July 11, 2016]**
- 2. REG#16354, Parks and Recreation Commission, Amend Section 29-9.E of zoning regulations pertaining to temporary/portable lighting [P.H. July 11, 2016]**
- 3. SUB#916, LTWJ, LLC, Cannon Road, 8-lot subdivision [P.H. July 25, 2016]**

**J. ADJOURNMENT**

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried unanimously (7-0) to adjourn at approximately 9:08 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary