

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

**WILTON PLANNING & ZONING COMMISSION  
PUBLIC HEARING/REGULAR MEETING  
MINUTES – SEPTEMBER 22, 2008**

**PRESENT:** Chairwoman Sally Poundstone, Commissioners Alice Ayers, Doug Bayer, Marilyn Gould, Bas Nabulsi, Eric Osterberg, Michael Rudolph, and John Wilson.

**ABSENT:** Dona Pratt (excused absence).

**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#341, Foster, 141 Nod Hill Road, To vary front setbacks for architecturally/historically significant structure pursuant to Section 29.5.C.8 of zoning regulations**

Ms. Poundstone called the Public Hearing to order at approximately 7:00 P.M., seated members Ayers, Bayer, Gould, Osterberg, Nabulsi, Poundstone, Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Mr. Nabulsi read the legal notice. He read for the record a Planning & Zoning staff report dated August 6, 2008, and a memo dated September 18, 2008 from the Director of Health.

Mr. Wilson arrived and was seated.

Present for the applicant was Rob Sanders, Rob Sanders Architects. He said the applicant wishes to add a house they are salvaging from Vista Road onto their residence on Nod Hill Road. The existing house has been referred to as the Smith House and is from

approximately 1830. He said it probably started out as a small little block fronting on Nod Hill Road and grew from its early 19<sup>th</sup> century origins. It was originally a story and a half structure, and around the turn of the century it was raised to a full 2-story structure. When the roof was raised, the old roof rafters were reused for the new roof.

Mr. Sanders said in about 1976, a variance was approved for a frontyard setback, which setback line cuts deeply through the house. He said there is a long sweeping hill behind the house, so the house is pretty severely banked into the hillside. Immediately behind the existing rear line of the house, the contour jumps up to a retaining wall and continues up the hill about 36'. Mr. Sanders pointed out the existing septic system south of the house, a free standing barn, and the driveway, and said those elements are to remain.

He said the house being relocated from Vista Road is a small, old house. It was essentially a 3-room house with two fireplaces and around 1900 one of the fireplaces was removed. The Fosters want to integrate the structure into their existing house and looked at different ways to join the two buildings. He said it was extremely important to the Fosters right from their earlier additions to retain the large trees which form a canopy at the rear of the house.

Mr. Rob White, also of Rob Sanders Architects, pointed out the first and second floors of the existing residence and showed how the Vista Road house would be relocated and incorporated into the house. He said, given the site conditions, the steep upslope and the very mature trees located directly behind the house, the frame was placed on the south end of the house, and is roughly 17' x 22' and a story and a half. He said it was located on top of a stone platform and connected back to the house with kind of an L-shaped rectangular, using salvaged timbers from the existing Vista Road structure, and then continuing on with the materials of the old Justin Smith House, i.e., the wood covered siding, the divided wood windows, and simple corner boards and the casements.

Mr. White said the footprint of the new addition is roughly 605 square feet in area, and the portion that exists in front of the setback line is 406 square feet. He said the setback distance the application is looking for is 32.5', and is not increasing. Mr. Nerney noted that the addition is in the setback, but it is not going any further into the setback.

In response to a question by Mr. Nabulsi, Mr. Sanders said the relocated house will become a family room on the first floor and a master bedroom on the second floor. He said whatever internal walls are associated with the Vista Road house today will no longer be there. He said the internal structure is not well preserved and the fireplace has been altered, although the frame is intact.

Mr. Wilson asked if there is a reason the application is coming to the P&Z rather than the ZBA. Mr. Nerney said an applicant has either option. Under the ZBA process a much more rigid legal test has to be met, whereas the P&Z process allows for a little more

flexibility, recognizing the desirability of protecting some of the older homes.

Ms. Gould commented that this is the second example in which their demolition delay ordinances have worked. She said the other one was a house on Hurlbutt Street which was moved to the Wulffleff property on Ruscoe Road, and was retained as part of the streetscape of that historic road, just as this house will be retained and become part of the historic character of Nod Hill Road. She said she thinks the architects have done an excellent job of integrating it.

In response to a question by Mr. Rudolph, Mr. White said the height of the completed structure will be no greater than the height of the existing structure, and the new setback will be 32.5' via the special permit.

Mr. Sanders said relocating a structure intact is hard to do, that they will be taking the Vista Road house apart and reconstructing it. He said they had to take into consideration several things in locating the structure where they did, i.e., the location of the well, the existing covered porch and the large trees. In addition, they had to get the internal circulation to work. The existing master bedroom space will become a bath and closet, and they will be adding a new stair. He said placing the structure on the northwest side was not a logical location because they would have had to demolish a bedroom and a bath, and they would have still needed a variance to do it. He said this is a case of architectural rightness rather than hardship, and that is the difference between being at the P&Z versus the ZBA.

Ms. Ayers arrived and was seated.

Mr. Bayer asked if there is an expansion of the driveway. Mr. Sanders said no, it is crushed stone now and it is going to stay crushed stone.

In response to a question by Mr. Nabulsi, Mr. Sanders said they are basically taking the original story and a half structure of the Vista Road house down to its original height and volume, and putting it on an elevated foundation. The family room will be tucked under the building and there will be a stepdown to get to it. He said it is as if you excavated a basement for the Vista Road house and built a family room there. He said the overall height of the renovated house is 26', which, for a two and a half story house, is very modest in scale. The existing house is 3,487 square feet, and they are adding 958 square feet for a total of 4,045 square feet. He said a considerable amount of that is in the conforming area, that only about 400 square feet is in the nonconforming space.

Mr. Bayer said one of the things the Board has to find is that by granting the relief the applicant is looking for is that it permits the retention of a historically significant house. He asked if it was possible to build a new house on the site given the setback requirements.

Mr. Sanders said it is a 1.8 acre lot with a large buildable area, and they had B100A testing done at the upper extreme of the property. He said a lot is being developed on Cannon Road that has at least as much contour on it and it has a new big house on it, so it would be possible to build on this site as well.

Ms. Poundstone commented that that would considerably alter the character of the vicinity if that were to be done.

Mr. Nabulsi asked, in making the necessary renovations with the stepdown to the family room and the integration of the new structure into the existing structure, how much of the historically significant aspect of the current Nod Hill home are they negatively impacting. He said his reading of the regulation is that they should not sacrifice in any meaningful way the historical and architectural significance of the current structure in permitting the applicant to come into the setback with this addition.

Mr. Sanders said they are not doing anything at all to the historic house. They are expanding onto the additions that were done in the '70s. He said it is nicely done, and they are not demolishing anything of the Smith House, either historic or 20<sup>th</sup> century, in the process.

Mr. Bayer said it appears to him that the contour of the driveway has somehow changed. Mr. Sanders agreed that he had previously misspoke, that the existing driveway line was redone, which he sketched on the plan.

Mr. Nabulsi said, as to Ms. Gould's point that this was an excellent use of the regulation and that preserving the interior of a structure being moved to a new location is of far less significance in terms of the use of the regulation, does the applicant agree with that statement or does it think they should also be sensitive to preserving the interior of historical and architectural structures.

Mr. Sanders said he is in favor of preserving as much architectural fabric as possible, but noted that the interior of this house was already demolished around 1900. He said, as he understands their charge, he doesn't think the Commission has the ability to regulate the interior of structures other than the square footage for commercial uses.

Ms. Gould said once the original fireplace is gone, and in this case it has been gone for a long time, the major feature of an 18<sup>th</sup>/early 19<sup>th</sup> century house is lost and you are left with a basic post and beam construction. She said if they are able to retain the character of the structure from the roadway, they have achieved an architectural and historic structure for the community.

There being no further questions or comments from the Commissioners or the public, at

8:48 P.M. the Hearing on SP#341, Foster, 141 Nod Hill Road, was closed.

**2. SUB#899, DeSola, 21 Edith Lane, 2-lot subdivision**

Ms. Poundstone called the Public Hearing to order at approximately 8:48 P.M., seated members Ayers, Bayer, Gould, Osterberg, Nabulsi, Poundstone, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Nabulsi read the legal notice. He read for the record a Planning & Zoning staff report dated August 12, 2008, a letter dated August 20, 2008 from Gregory & Adams, a memo dated September 18, 2008 from the Director of Health, a letter dated August 15, 2008, from Maureen and Jim Clancy of 29 Kent Hills Lane, and a letter dated September 22, 2008 from Margaret and John Cavanagh of 23 Kent Hills Lane.

Ms. Poundstone noted that, at the request of the applicant, the application is being continued to October 14.

**REGULAR MEETING**

**A. CALL TO ORDER  
SEATING OF MEMBERS**

Ms. Poundstone called the Regular Meeting to order at approximately 8:50 P.M., and seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Rudolph and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

**B. APPROVAL OF MINUTES**

**1. September 8, 2008 – Regular Meeting**

MOTION was made by Ms. Ayers, seconded by Mr. Wilson, and carried (7-1 with Mr. Nabulsi abstaining) to approve the minutes of September 8, 2008 as drafted.

**C. SITE DEVELOPMENT PLAN REVIEW**

**D. ACCEPTANCE OF NEW APPLICATIONS**

- 1. SDP, AvalonBay Communities, Inc., 116 Danbury Road, Modification to approve SDP to relocate emergency accessway**
- 2. SP#343, Sale/Craven-Griffiths, 310 Chestnut Hill Road, Accessory apartment (pool cabana)**

Mr. Rudolph noted that the Commission has given a lot of time to AvalonBay over the last six months to a year, and asked if the Commission is required to accept every application that comes from them until one is approved, or does it have some discretion on whether or not to accept an application.

Mr. Nerney said he thinks the applicant has the ability to come before the Commission to modify any item. He said in this instance, they are not coming in under the Affordable Housing Appeals Act, and they are treating it as a conventional application. He said when the Commission voted on the previous application, he recalls the applicant saying that they would continue to work with the neighbors to try to come up with a different alternative that hopefully would satisfy everyone.

MOTION was made by Mr. Wilson, seconded by Mr. Rudolph, and carried (8-0), to schedule item 1 for October 14, 2008, and item 2 for October 27, 2008.

**E. PENDING APPLICATIONS**

**1. CHZ#08316, Sadegi, 261 & 265 Danbury Road, Change of zone from R-1A to DRB**

Ms. Poundstone noted they have received a draft resolution, and it appears it incorporates the items the Commission was concerned about.

MOTION was made by Mr. Osterberg, seconded by Ms. Ayers, and passed (6-2 with Ms. Gould and Mr. Nabulsi abstaining) to adopt Resolution #0908-2MAP dated September 22, 2008 as drafted.

**2. SP#341, Foster, 141 Nod Hill Road, To vary front setbacks for architecturally/historically significant structure pursuant to Section 29.5.C.8 of zoning regulations**

Ms. Gould commented that this is a good example of things working the way they should. First, the demolition delay ordinance helped save a portion of a building, which has some character to it, and it is being put on another smaller, more historic building from the Smith family to make it into a more livable home for today, so she thinks they are doing two good things with this application.

Mr. Wilson said he agrees. He said he has been in the Wulffleff house and he knows what they were able to do with the addition of an historic structure to that residence. He said it is stunning and wonderful to look at both from the road and from the property, and he thinks this is a great idea.

Ms. Poundstone said it is a really sensitive use of an historic house, which will be moved

in context with a lovely neighborhood.

Mr. Rudolph said he appreciates that they are not going any higher or any closer to the setbacks.

Mr. Bayer said he doesn't think there has been adequate documentation on a lot of applications as to why they should be preserving the structure, and thinks the information that came with this application is what should come in with every application to explain what the structure is, when it was built, where it came from, and with some sort of outside proof as to the veracity of what is being represented. He said he thinks the application fits right into what they were trying to do when they passed the regulation.

Mr. Nabulsi said the one thing that concerns him about this application is that if all they were doing is using building materials from the house on Vista Road, then he thinks the addition could be built entirely behind the 50' setback, but what makes that not possible is the applicant is looking to preserve the rectangle of the Vista structure, so at the end of the day he is comfortable approving it.

Ms. Poundstone asked staff to prepare a resolution for October 14, 2008, and said she thinks the resolution should indicate the strength of the background material received in the application.

## **F. COMMUNICATIONS**

### **1. Discussion pertaining to the appointment of a Village District consultant**

Ms. Poundstone said the committee has experienced some scheduling problems, but they will have a report soon.

### **2. Wilton Historic Commission, Recommendations/comments regarding proposed formation of Historic District #8 (Cannondale Neighborhood)**

Ms. Poundstone referred to a document from the Historic Commission proposing the establishment of a Cannondale Neighborhood Historic District. She said the P&Z is only advisory on the proposal and the ultimate decision rests in the hands of the people in the neighborhood who have to vote for it and the Board of Selectmen.

Mr. Bayer asked what is the legal effect of creating an historic district.

Ms. Gould said there are different levels of historic districts. A local historic district is the most restrictive. The local historic district gives the Historic District Commission the responsibility to comment about exterior changes that are made to a building that is

visible from the roadway, and gives more protection to a building or to a neighborhood than does a national historic district or a state historic register.

Mr. Bayer asked what was the status of the moratorium at Cannondale. Mr. Nerney said the moratorium is up this month. He said he met with a couple of individuals from the Historic District Commission and they were aware that the Commission had been looking at different alternatives. They have adopted the Village District regulations, and they wanted to know the interplay between the Village District and the Historic District regulations.

Mr. Nerney said, as he understands it, the Historic District Commission generally will not pursue district designations if the neighborhood is not in support. He said his impression was that a number of residents in the area approached the Historic District Commission, as opposed to the other way around. Ms. Gould said they have had several neighborhood meetings, some of which she has attended, and the residential neighborhood is very much for it. She said the Route 7 owners were opposed to it, and they were not included in the local Historic District, even though they were the most significant part of the National Historic District that was done.

Mr. Wilson noted that the shop areas are listed, which potentially will be affected pretty dramatically, and asked if this is something that could be imposed on the train station. Ms. Gould said, while the train station is a state property, they have been very responsive in the past, because they want to retain the historical significance too.

Mr. Nerney said he thinks the Commission should look at it in terms of the Plan of Conservation and Development.

Ms. Poundstone noted that they have 65 days in which to respond. She said, although their next PCD meeting is October 6<sup>th</sup>, she thinks they should move ahead with the proposal. Ms. Gould commented that it doesn't affect the Board's land use issues, that P&Z is just advisory.

**MOTION** was made by Ms. Gould, seconded by Ms. Ayers, that the P&Z Commission send a letter to the Wilton Historic Commission and the Board of Selectmen saying they reviewed the proposal and they are in favor of it.

Mr. Bayer said his concern is that nine months ago the Commission imposed a moratorium on Cannondale Village because they wanted to look at the potential, and for the last nine months they have done nothing to look at that. He said if the Commission, as a general planning principle, feels the area should be preserved just the way it is, then he thinks it is appropriate to send a letter saying they support it, but if it is determined that there is some other use or development that would be good from a planning purpose there, he thinks it is premature to comment on it.



Ms. Ayers said if they are going to wait to respond to the proposal, she thinks the Commissioners should all read the regulations relating to a historic district so they understand what it is and isn't because she doesn't see that this concerns anything they are doing.

Ms. Gould said the proposal does not affect the land use, the use of the buildings, nor the undeveloped land, which is the primary area that is going to be of concern to the landowner. She said all it says is that the Historic District Commission must be involved in the process.

Ms. Poundstone said they will continue the matter and add it to the discussion at the Plan of Conservation and Development meeting.

Ms. Ayers said, to follow protocol, they need to withdraw the motion and the second.

Ms. Gould said in the spirit of congeniality, she will do that, although she sees no reason for it.

Ms. Poundstone noted that it will be put on the agenda and will be discussed at the Plan of Conservation and Development meeting on October 6<sup>th</sup>.

**3. SP#318, Temple B'nai Chaim, 92 Portland Avenue, Request for amendment of RES#0906-9P to waive stockade fencing**

Mr. Bayer recused himself from the discussion.

Ms. White said the regulations for screening call for (1) hedges having a minimum height of 7', (2) fences of timber construction of a suitable height, (3) masonry walls, (4) earthen berms, and (5) a combination of the above materials. She said even though additional deciduous trees and evergreen trees were added to screen the parking lot, the landscape architect felt that the screening didn't quite meet the criteria of the regulations because it wasn't a solid evergreen hedge and it wasn't an earthen berm as specified in the regulations, and felt they needed to have a fence.

She said, in the meantime, the neighbor on the south of the temple put up a fence on the south side of their house, and does not want the fence called for in the plans because they feel that two fences side by side would look funny. In addition, they feel the fences wouldn't match up in height, and would restrict their view, and they are therefore requesting that the requirement be waived.

Ms. White said they were not able to get a letter from the neighbor to the north because it

is her understanding that the property is in foreclosure and is bank owned. She said since the neighbor to the south has requested the waiver and since it is not technically a parking lot on that side, the recommendation is that the requirement be waived, and that the northerly side be waived as well considering the volume of the evergreens that were planted in combination with the existing hedge.

Ms. Ayers said she thinks the information they have received and what Ms. White has explained makes it clear that they could waive the requirement, because the barriers are fairly thick. In addition, the adjoining neighbor does not want the fence and is satisfied with the screening there.

Ms. Gould said the screening to the north is quite adequate and very attractive, and she sees no reason for a fence. She said she also does not see a reason for a fence on the south side, but thinks there should be some additional planting in the area between the two driveways.

Mr. Nabulsi said when he read the materials, his thought was that this was the type of matter that the administrative staff should work through and use its judgment to resolve.

Mr. Nerney said since there was some opposition in the neighborhood when the application originally came before the Commission, staff felt it would be best to put the request in writing and talk to the neighbors to find out how they felt. He said, as it turns out, the neighbors wrote a letter supporting the deletion of a fence, and obviously it doesn't seem very attractive to have two fences running parallel to each other. He noted that the lighting has been installed and is operational and they have not received any complaints regarding it.

Ms. Poundstone said she is impressed by the documentation and the photographs, and in view of what Commissioners Gould and Ayers have stated, the matter will be left with the staff to resolve.

**G. REPORT FROM CHAIRMAN**

Ms. Poundstone said at one of their October meetings they will have to meet 15 minutes early in executive session to deal with a legal matter, and she will notify the Commissioners when the date for that has been set.

**H. REPORT FROM PLANNER**

Mr. Nerney said, regarding the signs, first and foremost is the fact that many of the signs have to be in the right-of-way to even be seen, and that raises the question of what is the likelihood of an applicant getting authorization from the State. He said he talked to the ZEO, Tim Bunting, and spoke with the Planimetrics people to gauge their opinion. In

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other towns in Connecticut where they have run into a similar problem, either the State tries to get more signage, and oftentimes you see the orange signs with the black letters, or towns simply give a directive for a no-enforce policy for a period of time in which the Town will not be sanctioning it, but basically says this is not the time to enforce the regulation and, unless there is a safety issue, they will live with it and eventually, when the road is constructed, the problem will go away.

**I. FUTURE AGENDA ITEMS**

**J. ADJOURNMENT**

MOTION was made by Mr. Wilson, seconded by Ms. Ayers, and carried unanimously (8-0) to adjourn at 8:45 P.M.

Respectfully submitted,

Karen Pacchiana  
Recording Secretary