

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 14, 2010 REGULAR MEETING

PRESENT: Chairwoman Sally Poundstone, Secretary Doug Bayer, Commissioners Alice Ayers, Marilyn Gould, Bas Nabulsi, Eric Osterberg, Dona Pratt, and Michael Rudolph

ABSENT: John Wilson (notified intended absence)

ALSO

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

PUBLIC HEARINGS

1. SP#332A, Polito, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments

Ms. Poundstone called the Public Hearing to order at 7:18 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date. Mr. Bayer referred for the record to a 4-page Planning and Zoning Staff Report dated June 10, 2010 from J. Casey Healy to Planning and Zoning Commission; and a memorandum dated June 11, 2010 from Jennifer M. Zbell to Daphne White.

Present were Clarissa Cannavino, attorney; Kate Throckmorton, landscape architect; and Dominick Polito, applicant.

Ms. Cannavino reviewed details of the subject application, noting that the applicant is requesting permission to allow small offices in both buildings on the site, one of which is a single-family residence constructed in 2007, and the other which is an historic building

constructed in 1770. She stated that there would be no outside display in connection with such use, and she indicated that all signage and lighting on the site would be in compliance with zoning regulations. For the record, she noted that the property is serviced by septic and an approved well, which she explained was a correction from a previously submitted Environmental Impact Statement.

Ms. Cannavino responded to all items of the Planning and Zoning Staff Report dated May 20, 2010, addressing paving, fencing, landscaping, lighting photometrics, and parking issues. In particular, she noted that the accessory dwelling unit in the historic building was approved in 2007 per the historically/architecturally-significant structures regulations as part of SP#332. She explained that since the Land Record Information Form in connection with that approval had never been filed with the Town Clerk, if the subject application is approved the applicant will abandon SP#332, and the provisions of those regulations would no longer apply.

Ms. Throckmorton reviewed landscaping and lighting plan details. She explained that existing evergreen screening along the road would be supplemented with additional plantings. She also noted that vegetable gardens on the site would remain and the front would be re-landscaped. She stated that all lighting would be compliant with zoning regulations, and landscaping would be compatible with residential areas.

In response to a question from Mr. Bayer, Ms. Cannavino confirmed that if the applicant abandons the aforementioned approval (SP#332), it would be abandoning use of the historic building's accessory apartment but would not be removing the front porch for which setback relief had been obtained.

Ms. Gould referred to Section 29-5.C.6.c of zoning regulations (Professional Offices for Nonresident Occupants), which requires that a building has to have been used principally as a residence for at least three years prior to the date of application. She asked that the applicant provide evidence verifying such use over the past three years. Mr. Polito, co-owner of Ropo, LLC, confirmed that the building has been used as a residence by his tenant and business partner since March of 2007. Since he indicated that it has been leased on a month-to-month basis and thus he does not have a lease to provide to the Commission as proof, Ms. Cannavino stated that the applicant could provide a legal affidavit attesting to its residential use for the past three years.

Ms. Gould felt that the application for five small apartments in these two structures was out of step with, and not in the spirit of, the regulations, especially with respect to the older structure. She asked if it was the applicant's intent to use the south side area of the larger building's second floor as an apartment in the future. Mr. Polito stated that only 50% of the second floor space could be used as living space, per zoning regulations, and therefore the area in question would have to remain as a storage area.

Ms. Gould also felt that the numerous parking spaces located across the front of the property looked very commercial in appearance and was not compatible with a residential property. She questioned whether parking spaces could perhaps be moved to the rear so that they would be hidden from public view.

Mr. Polito explained that he was attempting to comply with Section 29-8.B.8.c of zoning regulations (Driveways and Curb Cuts) which limits maximum grade for new driveways to 7% (or 10% by special permission of the Commission), thus precluding use of the rear area for parking. He stated that he would be happy to move parking to the rear if the Commission permits. Ms. Cannavino indicated that the applicant's engineer could take a look at parking on the site, although she noted that the plan proposes no changes from existing conditions in that regard.

Mr. Nerney felt that the aforementioned driveway grade regulation has more to do with emergency vehicle access, i.e. getting safely from the street to the building (which he felt was not so much an issue here) as opposed to use of parking area by occupants.

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 7:45 P.M. the Public Hearing was continued until June 28, 2010.

**2. SP#258D, Wilton Retirement Housing, 435 Danbury Road, 16 additional
congregate housing units**

Ms. Poundstone called the Public Hearing to order at 7:45 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated May 28, 2010. He referred for the record to a 4-page Planning and Zoning Staff Report dated June 8, 2010; a letter dated June 3, 2010 from Dr. and Mrs. Jeffrey Nesheiwat to Lorraine Russo; a memorandum dated June 10, 2010 from Michael Ahern to Daphne White; a letter dated June 9, 2010 from A.E. Wiseman to Planning & Zoning Commission; and a letter dated June 10, 2010 from Patricia K. Clark to Eleanora Tornatore-Mikesh.

Mr. Bayer recused himself from the hearing and left the meeting room.

Present were Clarissa Cannavino, attorney; Lawrence Apple, principal; and Eric Rains, landscape architect.

Ms. Cannavino reviewed details of the application, noting that the 16 proposed additional

P&Z Minutes – 06/14/10 – Page 4

congregate housing units would bring the facility to a total of 107 units, of which 22 would be restricted as affordable. She stated that the applicant was in the process of preparing formal responses to the Planning and Zoning Staff Report dated June 8, 2010 and planned to meet in the near future with staff to discuss issues raised in said report.

Mr. Apple briefly reviewed the history of the parcel, noting that the original 15-acre site was purchased from Einar Moll in 1984. He explained that the proposed increase in living units would also be accompanied by an expansion of common areas in the facility. He reviewed services that are included in the Assisted Living and Evergreen portions of the facility, noting that their primary market area is Wilton and surrounding towns. He stated that preliminary lender approval had already been received for the project and construction would begin within 6 months, if approved by the Commission. He noted that the site would be in full compliance with all zoning regulations.

Mr. Rains reviewed landscaping and lighting plans for the site, noting that the existing trail system on the Olmstead Hill Road side would be expanded to envelop the new building. He stated that parking would be reconfigured to add another 16 parking spaces. He noted that an additional pole light is proposed as well as bollard lights around the new terrace.

In response to a question from Ms. Gould, Mr. Apple explained that the nursing home and the congregate facility each exists on its own separate parcel, with the nursing home in front and the congregate facility on the rear parcel. He noted that a portion of the front parcel would be transferred to the rear parcel in connection with the proposed site modifications.

In response to further questions, Ms. Cannavino stated that all parking meets setback requirements. In connection with item #13 of the Staff Report regarding zoning regulations limitation of site density to 12 units, she stated that the site does comply in that regard, but she indicated that the applicant would submit a formal response to the issue prior to the next meeting.

Ms. Gould noted that, per submitted floor plans, each unit appears to be potentially dividable into two units. Mr. Apple explained that the other area in question comprises a living room with a second bathroom which is an asset when a unit is occupied by a married couple. However, he noted that the site averages .924 bedrooms per unit where 1.5 is permitted, explaining that even if the referenced units were divided into two units, the site would still be well under the permitted bedrooms-per-unit average.

The issue of parking was raised. Mr. Nerney requested that the applicant provide a breakdown of required parking for both uses (i.e. nursing home and congregate housing), noting that a chart format would be particularly useful.

Ms. Gould requested a floor plan of the existing building as well.

Mr. Apple displayed elevations of the building, noting that the height of the proposed addition would be the same as the height of the most recent “Residences” addition. He also addressed the issue of emergency access for the modified site. In that regard, Mr. Nerney noted that plans were referred to both the fire and police departments, although responses have not yet been received from either department.

Addressing concerns raised by Olmstead Hill Road residents, Mr. Rains stated that many plantings are proposed to address screening issues for that area of the site. He showed before and after renderings, noting that existing gap areas would be filled in with 31 Serbian Spruce evergreens that would be 10-12 feet in height.

Ms. Gould requested that the applicant flag the building area and the emergency access along Olmstead Hill Road.

Mr. Nabulsi expressed concern that although the proposed height of the subject addition would be no greater than that of the recently completed “Residences” addition, the visual impact might be greater due to the topography of the two different site locations. He raised the possibility of reducing the addition from 2 ½ floors to 2 floors to address visual impact concerns.

Mr. Apple stated that the proposed addition would be much farther away from the road than the existing “Residences”, noting further that two apartments will be located on that additional ½ floor. He stated that the applicant would prepare a perspective (i.e. heights, distances from the property lines, etc.) to address these questions for the next meeting.

In response to questions about affordable housing, the applicant stated that 22 units out of the total 107 units would be classified as affordable, noting in particular that 4 of the currently proposed 16 units would fall under that category and be part of those 22 units. He explained further that priority is generally given to Town residents.

Ms. Cannavino noted that an amended affordable housing plan for the site would be filed with the Town.

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

Mr. Rudolph noted for the record that at one time in the past he had two relatives living in the facility, but he did not feel this constituted any conflict of interest.

There being no further comments from the Commission or the public, at 8:32 P.M. the Public Hearing was continued until June 28, 2010.

3. SP#223E, Zackiewicz, 39 Danbury Road (Unit #11), Operation of package store

Ms. Poundstone called the Public Hearing to order at 8:33 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated May 28, 2010. He referred for the record to a 2-page response letter dated June 14, 2010 from J. Casey Healy to Planning and Zoning Commission; a 2-page Planning and Zoning Staff Report dated June 10, 2010; and a memorandum dated June 10, 2010 from Michael Ahern to Daphne White.

Present was Clarissa Cannavino, attorney for the applicant.

Ms. Cannavino reviewed responses to issues/concerns raised in the Planning and Zoning Staff Report, addressing delivery hours/locations, hours of operation, dumpsters, lighting, storage and signage. Regarding use of the second floor space and adjacent garages, she explained that the second floor space will remain used as apartments and there are no present plans for use of the adjacent garages, although she indicated that there may be an application coming in the near future concerning this.

Ms. Cannavino noted for the record that the subject site satisfies the required distance of greater than 500 feet from the nearest school.

The issue of grocery cart use was raised. Commissioners had mixed opinions on whether such carts should be allowed. Ms. Pratt felt that if the Commission determined that such carts should not be allowed on the site, a condition to that effect should be incorporated into any resolution of approval.

An issue was raised regarding parking on the site. Reference was made to a previous waiver of 4 spaces as well as an apparent loss of 8 spaces in connection with the subject application. The applicant explained that no actual parking spaces are being lost with this application but that as a result of a conversion of some storage space to retail space, extra parking is now required (171 spaces required versus 159 spaces currently available on the site). Mr. Wilson, owner of the property and present in the audience, noted that there has been no change in use on the property since the Moore Rehabilitation Center was approved several years ago. He noted further that the current retail use of the subject location (Unit #11) is not changing as a result of the proposed package store use.

Ms. Cannavino noted the applicant's contention that the mixed use of the site justifies a parking waiver of 12 spaces since many of the site uses are predominantly daytime-oriented whereas the package store has more evening and weekend hours.

P&Z Minutes – 06/14/10 – Page 7

Mr. Nerney suggested that the site be reviewed more carefully with respect to storage versus retail areas of use. He expressed some confusion as to the supposed growth in retail use area since there are no apparent changes of use proposed for the site.

Ms. Ayers expressed concern that parking in the front is very tight.

Ms. Poundstone asked staff to take a close look at the aforementioned parking issues so that the matter could be more carefully reviewed at the next meeting.

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

Ramsey Bishuti asked if the applicant holds a State package store permit. Ms. Cannavino explained that the State does not issue such a permit until the applicant has first demonstrated satisfaction of local zoning requirements.

There being no further comments from the Commission or the public, at 9:01 P.M. the Public Hearing was continued until June 28, 2010.

REGULAR MEETING

- A.** Ms. Poundstone called the Regular Meeting to order at 9:01 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. May 24, 2010 – Regular Meeting

MOTION was made by Mr. Bayer, seconded by Ms. Gould, and carried (7-0-1) to approve the minutes of May 24, 2010 as drafted. Mr. Nabulsi abstained.

2. June 7, 2010 – Special Meeting

MOTION was made by Ms. Ayers, seconded by Ms. Pratt, and carried (6-0-2) to approve the minutes of June 7, 2010 as drafted. Mr. Nabulsi and Mr. Rudolph abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

- 1. SP#351, Kim & Song Properties, LLC, 151 Old Ridgefield Road, Take-out restaurant**
- 2. REG#10322, O'Brien Design, 118 Old Ridgefield Road, Amendment to Zoning Regulations Section 29-6.B.3.i to allow more residential units in GB zoning district within 1000 ft. from a train station**

MOTION was made by Ms. Poundstone, seconded by Mr. Bayer, and carried unanimously (8-0) to accept applications SP#351 and REG#10322 and set a public hearing date of July 12, 2010 for each.

E. PENDING APPLICATIONS

- 1. SP#350, Wilton Wine Search, 28 Center Street, Operation of Package Store**

Staff distributed draft Resolution #0610-10P for Commission review. Mr. Nerney noted that staff is in the process of obtaining accurate square footage numbers for the subject package store. It was the consensus of the Commission to postpone a vote on the draft resolution until accurate square footage numbers can be obtained and included in the resolution.

The application was therefore continued until June 28, 2010.

- 2. SP#332A, Polito, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments**

Tabled.

- 3. SP#258D, Wilton Retirement Housing, 435 Danbury Road, 16 additional congregate housing units**

Tabled.

- 4. SP#223E, Zackiewicz, 39 Danbury Road (Unit #11), Operation of package store**

Tabled.

F. COMMUNICATIONS

**1. AvalonBay communities, Inc./Avalon Springs II, 116 Danbury Road,
Proposed use of letter of credit from Bank of America**

Mr. Nerney explained that the applicant has been in discussions with Assistant Town Counsel Pat Sullivan regarding the matter and has requested postponement of the subject discussion until the next meeting.

G. REPORTS FROM CHAIRMAN/COMMITTEE CHAIRMEN

Ms. Poundstone advised Commissioners about a Danbury Branch railway improvement program scheduled for discussion at the Wilton Library on the evening of June 15th, 7 P.M. – 9 P.M.

It was also noted that a Route 7 follow-up meeting is scheduled on or about June 22nd at the Liberty School in Ridgefield. Ms. Pratt stated that she would check with Mr. Nerney regarding the exact date.

Mr. Rudolph noted that the Regulations Committee met earlier in the evening and roughed out some new temporary signage regulations/modifications, which Mr. Nerney will be firming up in preparation for the next Regulations Committee meeting on June 28th.

Ms. Poundstone advised Commissioners that Mr. Osterberg plans to resign from the Commission effective July 13, 2010. She expressed hope that he would consider remaining a member until July 26th, which is the last P&Z meeting before the August recess. She thanked him for his service and stated that he will be missed by all.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

**1. SP#45P, The Lake Club, Inc., 175 and 195 Thayer Pond Road, Add lighting
to tennis courts 7 & 8 [P.H. June 28, 2010]**

J. ADJOURNMENT

MOTION was made by Ms. Ayers, seconded by Mr. Bayer, and carried unanimously (8-0) to adjourn at 9:18 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary