

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

WILTON PLANNING & ZONING COMMISSION MINUTES OCTOBER 25, 2010 REGULAR MEETING

PRESENT: Chairwoman Sally Poundstone, Vice Chairman John Wilson, Secretary Doug Bayer, Commissioners Alice Ayers, Marilyn Gould, Chris Hulse, Bas Nabulsi, Dona Pratt, and Michael Rudolph

ABSENT:

ALSO

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

PUBLIC HEARINGS

- 1. SP#190I, Teachers Insurance and Annuity Association of America, 10 Westport Road, To allow for the construction of 197 additional parking spaces**

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members Ayers, Bayer, Gould, Hulse, Poundstone, Pratt, Rudolph, and Wilson, 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 memorandum dated October 13, 2010 from Robert Nerney to Planning and Zoning Commission.

Commissioner Nabulsi arrived and was seated at 7:16 P.M.

Present was Clarissa Cannavino, attorney.

Ms. Cannavino entered into the record a memorandum dated October 7, 2010 from Field Engineer Ahern to Daphne White and Pat Sesto confirming that there are no outstanding

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engineering issues for the site. She stated that the applicant was amenable to the possibility of a two-phase parking construction process, where the second phase of parking, if deemed necessary, would be subject to administrative review/approval by the Commission.

Ms. Cannavino explained further that the applicant's Inland Wetlands Commission hearing would close on Thursday, October 28th and, as required by the Wetlands Commission, the applicant would be submitting prudent and feasible alternative parking plans. She submitted into the record a copy of an Alternative Parking Expansion Plan (ALT-1.0) dated September 22, 2010, which will be reviewed by the Inland Wetlands Commission. She noted that four alternatives are depicted on the plan (A, B, C and D), but she felt that options A, B and D were not prudent and feasible alternatives since they would actually cause significantly greater disturbance to the site. She stated that alternative plan C, if preferred by the Inland Wetlands Commission, would eliminate two parking spaces currently located within the 100-foot regulated wetlands area, one of which would be replaced outside of the regulated area, resulting in a net loss of one parking space to the site overall.

In response to concerns of the Commission, Mr. Nerney confirmed that if any of the aforementioned alternate plans was required to be implemented by the Inland Wetlands Commission, then the applicant would have to resubmit to the Planning and Zoning Commission with updated grading, drainage plans, etc., essentially resulting in a new application with a new legal notice and another Planning and Zoning review.

In response to Ms. Pratt's question pertaining to the phased construction proposal, Ms. Cannavino confirmed that no portion of phase two parking would be constructed without the administrative approval of the Commission.

Mr. Nabulsi noted for the record that he had listened to the tapes of the previous meeting.

In response to a request from Mr. Nabulsi for clarification regarding the aforementioned administrative approval process, Mr. Nerney explained that the applicant would have to come back before the Commission, not just staff, and demonstrate to the Commission's satisfaction that phase two site improvements are in fact warranted.

Ms. Cannavino confirmed her understanding of administrative approval to mean that the applicant would come before the Commission, without the need for another public hearing, and would be permitted to construct phase two parking as long as a reasonable establishment of need was demonstrated at that time.

Mr. Nabulsi noted for the record that the subject application was totally predicated upon the needs of 10 Westport Road and therefore the applicant should understand that the need for future construction of phase two parking should not be justified by, or connected

in any way with, the parking needs of the Hanson House. Ms. Cannavino noted that while the proposed parking would obviously provide some support for the Hanson House as well as 10 Westport Road, she agreed that phase two parking approval should be predicated on the needs of 10 Westport Road and not the Hanson House.

Mr. Bayer questioned the logic of conditionally approving the second phase of parking as part of the subject application if, in fact, the applicant has not adequately demonstrated need for the full amount of parking proposed. He suggested approving only the first phase and requiring the applicant to come back before the Commission with another application if the second phase is required.

Mr. Nerney explained that approval of the application, as submitted, would likely be helpful to the applicant's tenant marketing efforts, but he felt that phasing the actual construction could potentially head off unnecessary clearing/disturbance to the land if in fact the additional parking proved not to be necessary. He noted that the applicant would still have to comply with all the requirements of the Inland Wetlands Commission.

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 7:38 P.M. the Public Hearing was closed.

2. SP#294C, MetroPCS NY, LLC, 40 Danbury Road, Antenna installation in stealth flagpole housing, and telecom equipment cabinets on roof of existing building

Continued until November 8, 2010.

3. SP#353, Polito/ROPO, LLC, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments in Building #1 and to allow for adaptive use in Building #2

Ms. Poundstone called the Public Hearing to order at 7:38 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date.

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

Ms. Throckmorton referred to a posted engineering plan, noting that the question of

driveway grades had been raised by the Commission at the previous hearing. In response, she noted that the grade of the driveway entrance area (from the street to the front parking area) is less than the 7% maximum permitted per Section 29-8.B.8.c of zoning regulations. She acknowledged that the grade is higher on the lower areas of the site where parking is proposed in the alternative parking plan, but it was the applicant's opinion that Section 29-8.B.8.c pertains only to the actual driveway entrance area (i.e. the connection of the site to the street). She also noted that the width of the driveway is 20 feet as required by zoning regulations.

Ms. Cannavino added for the record that the Fire Marshal has no issues from a safety perspective with either parking proposal. She noted that the applicant is willing to implement either parking plan but feels that the alternate plan, which includes parking on the lower level of the site, is aesthetically more pleasing.

Ms. Gould questioned Ms. Cannavino's allusion at the last hearing that the proposed apartments could qualify as affordable housing units for the Town. Ms. Cannavino clarified the comment. She acknowledged that while the units would not technically qualify as affordable housing units for the Town, they could "effectively" qualify, given their size and location.

Ms. Ayers questioned the underlying premise of the application, i.e. that one parcel could qualify simultaneously under two different sections of the zoning regulations. She felt that this could potentially be a "slippery slope" for the Town. She also questioned the premise of two principal structures on one parcel when dealing with present zoning regulations.

Ms. Cannavino submitted into the record a letter dated October 25, 2010 from J. Casey Healy to Planning and Zoning Commission listing properties located on Danbury Road on which more than one principal building is located and which principal building or buildings also house apartments. The list included 7 different properties ranging from 395 Danbury Road (Wilton H.S.) up to 539 Danbury Road (Split Rock Tavern).

Ms. Gould reviewed the list and it was her opinion that the examples cited were in no way analogous to the subject application. She felt that all of the submitted examples included properties with historic buildings that had been preserved over the years under adaptive use regulations, whereas the subject parcel, although it did have an historic structure on it, also included a new building which was supposed to be a residence. She shared Ms. Ayers' concern about how the application is compatible with two-acre zoning regulations.

Ms. Poundstone agreed that it is important to consider whether a decision on the subject application could potentially set a precedent for the Town.

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Ms. Gould felt that all of the submitted examples pre-date current adaptive use regulations. Referring in particular to White Fences at 523 Danbury Road, Ms. Gould noted that the original building is historic and the Commission later allowed other buildings on the site to be put to commercial use. Mr. Wilson recalled from personal experience that the aforementioned buildings were used for commercial purposes at least as far back as the 1970s.

Ms. Cannavino stated that the point of adaptive use is to preserve historic buildings, and she noted that the small structure is a beautiful historic building. She offered to do additional research to find examples of other properties in Town where buildings/uses on a particular parcel have been approved under different sections of the regulations.

Mr. Nerney agreed that the applicant's submitted examples all involve historic buildings, noting in particular that Wilton High School at 395 Danbury Road predates the creation of adaptive use regulations. He referred to the preamble for Adaptive Use Regulations (Section 29-5.C.5), noting in particular that the Commission, in connection with granting Special Permit approval for adaptive use, may consider whether the nature and conduct of such use shall "enhance and preserve the aesthetic appearance of the remainder of the property; and, maintain the general character of the neighborhood". In light of this guidance and in its efforts to determine whether adaptive use can be granted for the smaller historic building, Mr. Nerney thought that the Commission might wish to consider whether the integrity/character of the property has been compromised in any way as a result of the construction of the newer structure on the property.

Mr. Bayer noted that the regulations for both Adaptive Use and for Professional Offices for Nonresident Occupants require the Commission to consider one of the structures as the principal building. He asked if there are any examples of other similar properties in Town. He disagreed with Ms. Cannavino's proffering of 436 Danbury Road as a similar example since he felt that one of the buildings on that site is clearly a principal structure.

The Commission noted that several of the applicant's submitted examples, including 503 Danbury Road and 539 Danbury Road (Split Rock), were not approved for residential type apartments, although Ms. Cannavino indicated that they were described as such in the Assessor's records.

Mr. Rudolph questioned whether the issue of two principal buildings on one site was really the major stumbling block in this application since Commissioners Ayers and Gould indicated they would probably look more favorably upon the application if the larger building were also historic.

Mr. Bayer noted that if the applicant were to use the smaller building for commercial purposes then there would likely not be a problem. Ms. Cannavino explained that there is no need for office space in that structure, noting that the real demand is for housing. She

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stated that she would do further research to present to the Commission at its next meeting, and she promised to submit a letter granting the Commission an extension of the time to close the public hearing.

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 8:12 P.M. the Public Hearing was continued until November 8, 2010.

- 4. REG#10323, Gregory & Adams, To amend Section 29-4.D.1.g, regarding minimum lot size and yard requirements in connection with accessory dwelling units in R-2A single family residential districts for lots that were created by way of approved subdivisions in which undersized lots were created due to lot averaging**

Continued to November 8, 2010.

- 5. CHZ#10324, Florio, Request to change zoning at 87 Kent Road from a Residential “R-2A” zoning district to a Residential “R-1A” zoning district**

The application was withdrawn at the request of the applicant.

- 6. SP#354, MetroPCS New York, LLC, 187 Danbury Road, Antenna installation in stealth flagpole housing, and telecom equipment cabinets on roof of existing building**

Continued to November 8, 2010.

REGULAR MEETING

- A.** Ms. Poundstone called the Regular Meeting to order at 8:14 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

- 1. October 12, 2010 – Regular Meeting**

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried (7-0-2) to approve the minutes of October 12, 2010 as drafted. Commissioners Ayers and Nabulsi abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

- 1. SP#190I, Teachers Insurance and Annuity Association of America, 10 Westport Road, To allow for the construction of 197 additional parking spaces**

Tabled.

- 2. SP#294C, MetroPCS NY, LLC, 40 Danbury Road, Antenna installation in stealth flagpole housing, and telecom equipment cabinets on roof of existing building**

Tabled.

- 3. SP#353, Polito/ROPO, LLC, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments in Building #1 and to allow for adaptive use in Building #2**

Tabled.

- 4. REG#10323, Gregory & Adams, To amend Section 29-4.D.1.g, regarding minimum lot size and yard requirements in connection with accessory dwelling units in R-2A single family residential districts for lots that were created by way of approved subdivisions in which undersized lots were created due to lot averaging**

Tabled.

- 5. CHZ#10324, Florio, Request to change zoning at 87 Kent Road from a Residential “R-2A” zoning district to a Residential “R-1A” zoning district**

Withdrawn.

- 6. SP#354, MetroPCS New York, LLC, 187 Danbury Road, Antenna installation in stealth flagpole housing, and telecom equipment cabinets on roof of existing building**

Tabled.

F. COMMUNICATIONS

1. Discussion pertaining to allowable size of temporary signs

Continued until November 8, 2010.

2. ECS Transportation, 390/392 Danbury Road, Request for administrative approval to locate to Goetjen Moving and Storage site

A letter of support from William Goetjen to Bob Nerney was submitted into the record.

Mr. Nerney referred to a package submitted by Brian McArdle (ECS Transportation) to Robert Nerney dated October 18, 2010, requesting administrative approval to move ECS Transportation to the current Goetjen Moving and Storage site at 390/392 Danbury Road. Mr. Nerney described a number of ECS services including providing limousine service, primarily for corporate clients; contracting with Norwalk and Stamford public schools to transport special needs students via mini buses and station wagons; and transporting corporate employees from one office location to another.

Mr. Nerney referred to General Business (GB) regulations, noting that the proposed use is not specifically listed as a permitted use although he noted that it is very similar in nature to the current Goetjen use of the parcel. He questioned whether the proposed use could perhaps be considered under the category of a contracting business (a use allowed by Special Permit in the GB zone), albeit not the generally understood meaning of the word “contracting” in connection with construction-type activities. He noted further that another special permitted use in the zone (automotive rental) would involve outdoor storage of vehicles as well. He stated that other tenants would probably be moved out to accommodate the needs of ECS.

Mr. Nerney asked the Commission whether it felt the proposed use qualifies under the GB regulations (i.e. if it is similar enough to the current Goetjen use) and also whether the Commission would prefer to review this application via the formal special permit process or if it felt it could be handled administratively by staff.

A discussion ensued. Mr. Wilson expressed concern that the site could potentially look like a parking lot. He expressed hope that most of the vehicles could be parked in the back of the lot. Mr. Nerney noted that while it is the intent of the applicant to provide proper screening and to locate vehicles behind the building, any resolution of approval would have to consider the overall carrying capacity of the lot since a business can grow over time.

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Ms. Gould felt that the proposed use would be very appropriate for the site, noting in particular that over the years large-sized trucks have been parked on the site in connection with the current Goetjen moving business.

Mr. Nabulsi referred to pages 73 and 75 of the Town's Plan of Conservation and Development, noting that the proposed use did not appear to be in alignment with or reflect the Plan's vision for that stretch of Route 7. While he recognized the commercial interest, he felt that the Commission should not ignore what was established in the Plan as its vision for that area of Town.

Mr. Bayer expressed some reservations with handling the application on an administrative level if the use is determined to be by Special Permit approval only. Upon further reflection, he stated that he could probably go either way, although he observed that the current use on the site predates zoning.

Ms. Pratt stated that she would like to see a parking plan/layout clearly specifying the numbers/types of vehicles and their proposed parking locations on the site.

A straw poll was taken and it was determined that the majority of Commissioners were in favor of an administrative handling of the application by staff, as long as the nature of the tenancy/ownership is clarified, a parking plan/layout for the rear area is submitted, adequate screening is provided, and an overall limit on numbers of vehicles permitted on the site is established. It was also determined that if any questions/issues arose, Mr. Nerney would come back before the Commission for further input/review.

G. REPORT FROM CHAIRMAN

Ms. Poundstone reminded Commissioners about the Route 7 Access Management Plan meeting scheduled for Wednesday, October 27, 2010, between 1:00 – 7:30 P.M. at Wilton Library. She noted that a General Open House and Summary session would be held 6:30 – 7:30 P.M., which she felt would be particularly worthwhile to attend.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. CHZ#10325, TBS Partners, LLC, 251, 255, 257, 259 Danbury Road, Request to change zone from R-1A and GB to DRB**
- 2. SUB#904, Vollmer, 137 Olmstead Hill Road, 4-lot subdivision**

MOTION was made by Ms. Ayers, seconded by Mr. Wilson, and carried unanimously (9-0) to reschedule the public hearings for the above applications from November 8, 2010 to November 22, 2010.

J. ADJOURNMENT

MOTION was made by Mr. Wilson, seconded by Ms. Ayers, and carried unanimously (9-0) to adjourn at 8:39 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary