

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

## **WILTON PLANNING & ZONING COMMISSION MINUTES JANUARY 24, 2011 REGULAR MEETING**

**PRESENT:** Chairwoman Sally Poundstone, Secretary Doug Bayer, Commissioners Chris Hulse, Bas Nabulsi, Dona Pratt, and Michael Rudolph

**ABSENT:** Commissioners Gould, Wilson (notified intended absences)

### **ALSO**

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

### **PUBLIC HEARINGS**

#### **1. REG#10328, Kevin O'Brien, Amendment to Section 29-6.B.3.i pertaining to dwelling units located within 1000 feet from train station**

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members Bayer, Hulse, Nabulsi, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated January 11, 2011 and referred for the record to a 2-page Planning and Zoning Staff Report dated January 19, 2011; and a memorandum dated January 21, 2011 from Michael Ahern to Daphne White.

Present was Kevin O'Brien, applicant.

Mr. O'Brien submitted into the record two documents which he had previously submitted in connection with his application for the same amendment this past summer, including his letter dated July 15, 2010 to the Planning and Zoning Commission summarizing similar regulations from four nearby towns (Bethel, Darien, New Canaan and Ridgefield); and a vicinity sketch dated June, 2010, showing parcels located within 1000 feet of the Wilton Train Station.

Mr. O'Brien briefly reviewed details of the application, noting that his previous application was denied because the Commission wished to consider the amendment for the three commercial districts (i.e. Design Retail Business (DRB), Wilton Center (WC) and General Business (GB)), as opposed to addressing the issue for the GB zone alone. Mr. O'Brien explained that his focus is on the GB zone portion of the amendment since he is looking forward to representing the interests of the owners of Crossways at the intersection of Routes 7 and 33. He noted that the Crossways parcel is zoned GB but is surrounded by residential properties and is thus constrained by large setbacks on the south and east.

In response to questions from the Commission, Mr. O'Brien stated that there are currently 10 residential apartments in Crossways, with 8 located in the building on the northern portion of the site. He noted that providing more dwelling units within close proximity to train stations is a trend that is occurring around the world and is the wave of the future.

Mr. Rudolph referred to the Planning and Zoning Staff Report dated January 19, 2011, noting that the Regulations Committee had recommended 8 dwelling units per acre in the GB zone if located within 1000 feet of the Wilton train station. He questioned the applicant's rationale for requesting 10 units under such circumstances.

Mr. O'Brien explained that he was modeling his proposed amendment on Bethel's regulations which permit a density of 10 units per acre. He noted that Wilton's current regulations for the DRB zone do not limit such dwelling units by acreage, but rather consider floor area ratios (FAR) and parking requirements. He also noted that New Canaan's regulations impose limitations pertaining to square footage and number of bedrooms.

In response to a question from Mr. Nabulsi regarding parking requirements, Mr. O'Brien stated that 2.5 parking spaces are currently required for a 1-bedroom apartment in the DRB zone. He noted further that utilizing all of the current zoning restrictions in the DRB zone (i.e. FAR, parking, coverage restrictions, etc.) the maximum number of one-bedroom apartments (500-600+/- square feet) that could possibly be achieved on one acre would be 11.

Mr. Nabulsi asked if the Commission has the ability to waive the parking requirement in a mixed development where retail is located on the ground floor and residential is located above. Mr. O'Brien stated that there is a provision in the regulations for joint use reduction where there are two or more different uses. He also noted that parking requirements for commercial properties on Route 7 are much more restrictive than in Wilton Center.

Mr. Bayer asked whether some consideration had been given, or should be given, to other

train stations in Town, referring in particular to Cannondale station and a station that might eventually be built in connection with the Georgetown wire mill development. Mr. Nerney explained that Cannondale is a bit unique given its character/historic integrity, and it doesn't have quite the same critical mass as the GB zone which is also in close proximity to Wilton Center. With respect to the Georgetown area, Mr. Nerney explained that the train station itself, if built, would be located in Redding, not in Wilton. In addition, he noted that the resurrection of the Kent Station in south Wilton does not at this time seem very promising since ridership does not appear to warrant it.

In response to a question from Ms. Pratt, Mr. O'Brien explained again that he proposed regulations for the GB zone only (and not for DRB and WC zones) due to the interests of his clients at Crossways. In addition, he noted that he was also being mindful of Commissioner Gould's comment at the previous hearing that the Commission prefers to develop its own regulations. He stated that his clients could live with regulating the number of dwelling units via FAR and parking restrictions, and could also live with the 8-units per acre Commission proposal, if the Commission so prefers, although their preference would be 10 units per acre.

In response to a question from Ms. Pratt regarding the possibility of limiting the number of occupants in such units, Mr. Nerney explained that zoning can regulate the size of units, taking into consideration the character of an area, as well as items such as septic and sewer considerations, but he emphasized that zoning regulations should be based on issues of land use and not of occupancy. He stated that the Commission can consider structure, size, scale, etc. in relation to surrounding uses, but he discouraged, based on recent court discussions, getting involved in restricting occupancy in any way.

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 7:39 P.M. the Public Hearing was closed.

**2. SP#357, Rolling Hills Country Club, 333 Hurlbutt St, Lighting on four existing tennis courts**

Ms. Poundstone called the Public Hearing to order at 7:39 P.M., seated members Bayer, Hulse, Nabulsi, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated January 11, 2011, and he referred for the record to a 3-page Planning and Zoning Staff Report dated January 19, 2011; a memorandum dated January 21, 2011 from Michael Ahern to Daphne White; and a letter dated January 24, 2011 from J. Casey Healy to Planning and Zoning Commission request a continuation of the public hearing.

Mr. Bayer recused himself.

Ms. Poundstone noted that the applicant had requested a continuation of the application until February 7, 2011. However, since the next regular Planning and Zoning meeting is scheduled for February 14<sup>th</sup>, 2011, she expressed her trust that Attorney Healy would amend his continuation request to February 14, 2011.

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 7:42 P.M. the Public Hearing was continued, with the understanding that the application would next be heard on February 14, 2011.

## **REGULAR MEETING**

**A.** Ms. Poundstone called the Regular Meeting to order at 7:42 P.M., seated members Bayer, Hulse, Nabulsi, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

## **B. APPROVAL OF MINUTES**

**1. January 10, 2011 – Regular Meeting**

**2. January 19, 2011 – Special Meeting**

**MOTION** was made by Mr. Bayer, seconded by Mr. Nabulsi, and carried (6-0) to approve the minutes of January 10, 2011 as drafted; and carried (5-0-1) to approve the minutes of January 19, 2011 as drafted. Mr. Rudolph abstained for the minutes of January 19, 2011.

## **C. SITE DEVELOPMENT PLAN REVIEW**

## **D. ACCEPTANCE OF NEW APPLICATIONS**

**1.** SP#359, Standard Petroleum of CT, 287 Danbury Road, Modifications to existing service station and replacement of underground fuel storage tanks within an aquifer protection district

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2. SP#360, Plan B Retail Design, 920 Danbury Road, Expand existing shopping center
3. CHZ#10329, Gueron, Overlay Cannon Crossing District (CXD) on underlying R-2A Zone for property known as Assessor's Map 34, Lot 42
4. REG#10330, Gueron, Amendments to Sections 29-2.B.13 and 29-6.E pertaining to Bed and Breakfast Accommodations
5. SP#361, ROPO, LLC, 490 Danbury Road, Professional offices and residential apartments in Building #1, and professional office in Building #2
6. SP#362, ROPO, LLC, 490 Danbury Road, Adaptive use of Building #2 for professional offices

MOTION was made by Ms. Poundstone, seconded by Mr. Bayer, and carried unanimously (6-0) to accept the above applications and set public hearing dates as follows: SP#359 – February 14, 2011; SP#360 – February 28, 2011; CHZ#10329 & REG#10330 – March 14, 2011; SP#361 & SP#362 – March 28, 2011.

**E. PENDING APPLICATIONS**

**1. REG#10328, Kevin O'Brien, Amendment to Section 29-6.B.3.i pertaining to dwelling units located within 1000 feet from train station**

Mr. Rudolph proposed adoption of the amendment as proposed by the Regulations Committee, and cited in the Planning and Zoning Staff Report of January 19, 2011, which included amendments for the Design Retail Business (DRB) and Wilton Center (WC) zones as well as for the General Business (GB) zone. Mr. Nerney recommended against adoption of the DRB and WC-related text since the recently published legal notice addressed only the GB zone. He did not feel it appropriate to grow the size of the amendment's impacts without giving proper legal notice to the public.

Mr. Rudolph expressed concern with a potential lack of consistency within the regulations if the various zones are addressed individually, on a piece-meal sort of basis, instead of as a whole.

Questions arose as to whether some different methodology should be utilized for the Wilton Center and DRB portions of the Regulations Committee version (i.e. if perhaps 8 units per acre would be more appropriate for the Wilton Center area, as opposed to five, and also whether the 1000-foot distance should be reconsidered for that area as well).

Ms. Poundstone suggested passing the GB portion of the amendment this evening with the understanding that the Commission would further discuss wording for the DRB and

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WC zone portions later this evening in preparation for a similar amendment in the near future.

Mr. Nabulsi raised the issue of definition of “Wilton Train Station”. It was agreed that the 1000-foot measurement would be determined from the train station building itself.

**MOTION** was made by Mr. Rudolph to approve the application for the GB zone but with the understanding that the language cited in the P&Z Staff Report for the GB zone portion would be substituted for the language as proposed by the applicant, with the further understanding that the language for DRB & WC zones, as proposed by the Regulations Committee, shall follow as permitted by the Commission’s rules for adoption.

Mr. Bayer stated that he was not comfortable with obligating the Commission to take action or vote in a certain way on a future application, although he had no problem with expressing intent on the part of the Commission to hear/entertain such an application in the future.

**MOTION** was formally amended by Mr. Bayer to approve the GB portion of the application, with the provision that the number of dwelling units per acre within 1000 feet of the Wilton Train Station be limited to 8 instead of 10.

Mr. Nabulsi noted for the record that he agreed with Mr. Bayer’s point, noting that he did not think it correct for the Commission to commit up front how it will vote on a future application. He felt comfortable committing to publicly notice a hearing for the WC and DRB zones, and to consider the application in a timely manner and as required procedurally.

**MOTION** was then modified further by Mr. Rudolph to approve the application for the GB zone with the understanding that the language cited in the P&Z Staff Report would be substituted for the language as proposed by the applicant (with the provision as moved by Mr. Bayer to reflect 8 units within 1000 feet of the Wilton Train Station, instead of 10 as proposed by the applicant), with the further understanding that the Commission would publicly notice and hear/consider the Regulations Committee proposal for the WC & DRB zones as soon as possible.

The motion, as modified twice, was seconded by Mr. Nabulsi and carried unanimously (6-0). Staff was instructed to draft a formal resolution to reflect the motion as adopted, effective January 27, 2011.

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**WHEREAS**, the Wilton Planning and Zoning Commission accepted application #10328 for amendments to the Zoning Regulations of the Town of Wilton to amend Section 29-6.B.3.i. of the General Business District; and

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on January 24, 2011 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the Planning and Zoning Commission has determined that the amendments are consistent with the Plan of Conservation and Development; and

**NOW THEREFORE BE IT RESOLVED**, that the Wilton Planning and Zoning Commission **APPROVES** application #10328 effective January 27, 2011 as follows:

*Section 29-6.B.3.i. (amend) as follows:*

*General Business “GB”*

3. Special Permit Uses: The following principal uses shall be permitted in the GB District subject to Special Permit and Site Plan approvals in accordance with 29-10 and 29-11:
  - i. Dwelling units located over street level stores or offices at a maximum density of ~~three~~ **five (5)** dwelling units per acre, **except such density may be increased to not more than eight (8) units per acre if located within 1,000 feet of the Wilton Train Station.**

- End Resolution –

2. **SP#357, Rolling Hills Country Club, 333 Hurlbutt St, Lighting on four existing tennis courts**

Tabled.

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN**

**H. REPORT FROM PLANNER**

Ms. Poundstone referenced a letter dated January 20, 2011, received by Planning and Zoning on January 24, 2011, from R. David Genovese to Robert J. Nerney requesting the early release of funds being held by the Town of Wilton.

Mr. Bayer recused himself from the discussion.

Mr. Nerney briefly reviewed a history of the site at 195 Danbury Road, noting that the Commission granted a parking waiver in 2006 with a condition that the applicant conduct and provide to the Town periodic parking occupancy surveys of the parking lots at both 195 Danbury Road and 187 Danbury Road. He stated that the applicant has been very diligent in that regard and provided the last required parking survey this past December, all of which have proved that more than ample parking exists to accommodate full occupancy of the building at 195 Danbury Road.

The Commission briefly discussed the request for early release of the funds. In response to a request for his opinion, Mr. Nerney stated that he was okay with the request, noting that the parking situation at the site seems to have worked out very well.

It was the consensus of the Commission to release the bond, as requested, to the applicant.

**I. FUTURE AGENDA ITEMS**

**J. ADJOURNMENT**

MOTION was made by Ms. Pratt, seconded by Mr. Hulse, and carried unanimously (6-0) to adjourn at 8:10 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary