

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

**WILTON PLANNING & ZONING COMMISSION MINUTES  
SEPTEMBER 24, 2012 REGULAR MEETING**

**PRESENT:** Chairman John Wilson, Vice Chairman L. Michael Rudolph, Secretary John Gardiner, Commissioners Lori Bufano, Marilyn Gould, Peter Shiue, Bill McCalpin (7:16 p.m.) and Chris Hulse (7:18 p.m.)

**ABSENT:** Commissioner John Weiss (excused absence)

**ALSO**

**PRESENT:** Robert Nerney, Town Planner; Daphne White, Assistant Town Planner; Atty. J. Casey Healy, Gregory and Adams, P.C.; Atty. Pat Sullivan, Wilton Town Counsel; Jerry Ellis, the South Western Regional Planning Association Executive Director; Richard Murphy, SWRPA; Floyd Lapp, SWRPA; Bud Boucher, SWRPA; CT State Representative Toni Boucher; CT State Representative Gail Lavielle, Kate Throckmorton, Thomas Soto, Mr. Atkins, Mr. Petro, Atty. McMorris and members of the interested public and press.

**CALL TO ORDER**

Mr. Wilson called the Public Hearing to order at 7:15 p.m., seated members Bufano, Gardiner, Rudolph, Shiue and Chairman Wilson. He then referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Mr. Wilson announced that he would be recusing himself for the hearing. Mr. Rudolph acted as Chairman in Mr. Wilson's absence.

*Mr. Wilson recused himself at 7:16 p.m. Mr. McCalpin joined the meeting at 7:16 p.m.*

**PUBLIC HEARINGS**

1. SP#379, Rolling Hills Country Club, Inc., 333 Hurlbutt Street, Amend Special Permit to allow employee housing in existing residence on Club's property

Mr. Rudolph stated that the legal notice had been read at the previous meetings. Atty. Healy came forward and distributed copies of a letter dated September 24, 2012 from Gregory and Adams, P.C. to the Wilton Planning and Zoning. He then reviewed the details of his letter with the Planning and Zoning Commission.

Mr. Rudolph asked if the House Monitor was aware that his job depended on keeping the peace in the house. Atty. Healy said that it was part of the job description.

*Mr. Hulse joined the meeting at 7:18 p.m.*

Mr. Rudolph asked if the cottage would be occupied year round. He was told that it would be occupied for most of the year.

Ms. Gould asked if this would be a co-ed facility. She was told that it would be.

Mr. Nerney urged caution in regards to the agreement to abide by the noise regulations. He pointed out that it applies to land uses, but when one gets into the level of voices or music, it may not be within the Boards jurisdiction. He suggested that any conditions like this could be problematic in terms of administration. Discussion followed about whether it would be part of the house rules rather than the Planning regulations. Atty. Healy then pointed out that the Board of Selectmen was considering a noise ordinance.

Mr. Gardiner asked if the house rules would be rewritten. He was told they would be.

Atty. Healy was then asked if the site plan had been revised to reduce the amount of trees. Atty. Healy said that Ms. White had some concerns about the amount of screening and that additional screening might be problematic. Ms. White explained that there was a maple tree by the driveway and concerns were expressed that the spruce trees could interfere with the maple tree. Mr. Nerney said that the last time there had been a major project at Rolling Hills, there was a problem with planting trees because of the existing canopy of trees. Atty. Healy said that the project landscape architect thought it was sustainable, but was willing to work with the staff.

Mr. Rudolph asked if there was any one present who wished to speak in favor of the application. No one came forward. Mr. Rudolph asked if there was anyone who wished to speak against the application. Hearing none, Mr. Rudolph closed the public hearing on SP#377, Rolling Hills Country Club, Inc., 333 Hurlbutt Street at 7:30 p.m.

*Mr. Wilson returned to the meeting at 7:31 p.m. and resumed the Chair.*

## **REGULAR MEETING**

- A. CALL TO ORDER
- SEATING OF MEMBERS

Mr. Wilson called the Regular Meeting to order at approximately 7:31 p.m. seated members Bufano, Gardiner, McCalpin, Rudolph, Shiue, Gould, Hulse and Wilson referred to Connecticut General Statutes Section 8-1, Conflict of Interest.

B. APPROVAL OF MINUTES

1. September 10, 2012 – Regular Meeting

It was noted that under the Motion to Approve the Minutes for September 10, 2012, Mr. Hulse's name had been omitted from the list of Commissioners who abstained from voting.

MOTION was made by Ms. Gould, seconded by Ms. Bufano and carried unanimously to approve the minutes of September 10, 2012 as amended.

C. JURISDICTIONAL DETERMINATION

1. Jurisdictional determination involving a proposed subdivision of property located partly in New Canaan and Wilton, known as 160 Mill Road, New Canaan.

Atty. Pat Sullivan, the Assistant Town Counsel, came forward. Mr. Wilson asked if the Commission's decision would be effective. Atty. Sullivan pointed out that the fact that New Canaan is granting the applicants a sub-division is New Canaan's jurisdiction. There is not enough acreage in New Canaan to create two lots. If the request was before Wilton, it would not have enough acreage. Mr. Gardiner asked if the Board has the jurisdiction to declare there is Wilton land that they do not have authority over. Atty. Sullivan pointed out that it was non-conforming lot. Mr. Nerney pointed out that the Town looks at the entire parcel as a two acre parcel. If it was divided, both parcels would be below 2 acres zoning. Atty. Sullivan said that it would be proper to determine if the parcel was to be developed. She explained that the question was whether the parcel was buildable. If a conservation restriction was placed on the parcel, it would restrict the use. Atty. Sullivan then reviewed the details of the parcel and New Canaan's options. Referrals usually do not deal with property that is within the Town's jurisdiction.

The discussion then moved to whether or not the parcel would be considered a subdivision application in Wilton.

Ms. Gould asked whether Wilton had received any communications from New Canaan. She was told that Atty. Fuller's letter was in the file, but New Canaan had not yet given a ruling. Mr. Rudolph said that he thought that the Commission was being asked for an advisory opinion. Ms. Gould said that she saw no reason to respond to Atty. Fuller and wait until the Commission received an official request from New Canaan. It was the consensus of the Commission that until official request was received from New Canaan, there would be no response.

#### D. SWRPA PRESENTATION

1. Presentation by representatives of the South Western Regional Planning Association (SWRPA) concerning SWRPA's roles, responsibilities and current activities

Mr. Jerry Ellis, the South Western Regional Planning Association Executive Director, came forward, introduced his associates, Mr. Richard Murphy and Mr. Floyd Lapp. He then distributed a printed copy of the PowerPoint presentation to the Commissioners.

Mr. Murphy said that he had been representing Wilton at SWRPA for the last year. He said that with the 50th Anniversary, the SWRPA board felt that it would be good to go to the various towns and give a presentation. He then referred to the Norwalk Rivershed project. SWRPA has been working on updating the study that they produced. He then spoke briefly about the planning study for Route 7. Richard said that SWRPA does a lot of planning studies, but it is important to take the planning studies to the towns.

One study that has not been completed is the Danbury Branch Line.

Ms. Gould said that she was on SWRPA in 1978-79 and the issues have not changed. The question was whether or not the Danbury line should be electrified and extended beyond Danbury. Ms. Gould said that the Danbury had once extended all the way to Pittsfield, MA.

Mr. Hulse asked if the issue was about getting to Manhattan. Mr. Ellis said that when he came to SWRPA, he assumed the New Haven Line was only for Manhattan, but he has seen quite a bit of intrastate travel and the rail service is being used by the general public including construction workers and others. It was pointed out that when the Norwalk Transit Agency was created, Mr. Shulman, the Director of the Agency, worked very hard to extend the transit service to all the communities in SWRPA area. With the exception of Weston, there is service to all the other towns now.

The discussion then moved to I-95 and the tolls. There is a movement afoot to introduce new boothless technology that would record the license plates at various times during the day. He said that there was a CT DOT study that was considering this for I-95 between Greenwich and New Haven. Mr. Hulse asked about the revenue stream that could be generated from this. A brief discussion followed.

Mr. Hulse asked about the interchange with Rt. 7 and Rt. 15. He was told that the interchange had been in litigation for many years. At one point, the parties involved came to an agreement and then the work started. But when the austerity measures kicked in during 2008, the project was taken off the table by the State.

Mr. Ellis explained that SWRPA has a legislative committee which focuses on bringing about change. Every year in January, a transportation forum is scheduled. He encouraged the Commissioner to bring forth items that might be on their mind.

Representative Boucher said that she was very pleased to see the re-focus on the Danbury rail line. She said that the line had been out there by itself and isolated. But now SWRPA is interested and this has helped move things forward. The Danbury rail line will support not having a super highway through Wilton. She went on to outline some of the political currents that stalled the Route 7 & 15 interchange.

Representative Lavaille then spoke about the rail service and said that keeping the pressure on about the Danbury rail line was important. Developing a high speed rail line is something that the Federal Government is considering now. Access to the rest of New England is through Connecticut. Because of this, it is important to develop the hubs and the interchanges so that people can access the rail lines.

Mr. Ellis thanked the Commission for their Time. He also pointed out that Mr. Murphy had just started on SWRPA and had produced the presentation. Mr. Boucher will be phasing out as the treasurer for the organization. He thanked everyone for their efforts.

#### E. SITE DEVELOPMENT PLAN REVIEW

1. SDP, Coltman, 14 Stewart Lane, To permit importation of 1,000 yards of earth material for site grading purposes.

Mr. Gardiner said that he had a report to the staff on this permit request. Mr. Nerney said that there were responses to the comments submitted for the file as well.

Ms. Kate Throckmorton came forward and said that she was representing the owners. A stop order had been issued. Following the severe storms, a number of trees on the property were down and later removed. The owner then started bringing in 500 yards of earth. This was not acceptable to the Conservation Officer because of the wetlands.

Ms. Throckmorton stated that the owner is anxious to put them behind them since the house is going on the market.

Mr. Nerney said that he and Ms. White had visited the site and that this type of violation was a fairly common issue. He said that he was fine with waiving the bond since it would be posted through wetlands. A resolution has not been prepared for the Commission to act upon for this meeting.

Mr. Gardiner asked if there was a bond posted already. Mr. Nerney said that because of the wetland concern, a bond would be posted through them if one was not already posted.

Ms. Gould asked how this could be used as a teachable moment since this happens fairly regularly. Mr. Nerney reminded everyone that the end goal was to comply with the regulations and not to respond in a punitive way. Ms. Gould said that she wanted to have people come in first and do it according to the process. Mr. Nerney said that there was another couple that had gotten in over their heads and needed professional help from planners and landscape architects. Ms. Gould said that this would be a good example of what not to do. Mr. Nerney pointed out that this was not a complaint driven issue, but had been noticed by the staff that was visiting another site.

Mr. Wilson asked if there was any one present who wished to speak in favor of the application. No one came forward. Mr. Wilson asked if there was anyone who wished to speak against the application. Hearing none, Mr. Wilson closed the public hearing on closed the Site Development Plan Review on 14 Stewart Lane at 8:33 p.m.

2. SDP, Wilton Hardware, LLC, 21 River Road (part of 15 River Road), To allow an outdoor storage area and to allow an alternative signage program.

Mr. Tom Soto came forward and introduced Mr. Atkins, and Mr. Petro. Mr. Soto said that he was the owner of Wilton Hardware and was in the process of moving it a new location on River Road. However, he did not have outdoor storage. He said that he felt that the Town had void without a hardware store.

*Atty. McMorris joined the meeting at 8:40 p.m.*

Mr. Soto said that he was asking for two signs, one in the front and one in the back. There are about 12 spaces in front of the building, but the principal bulk of the parking is in the back and the side. Since the customers will want their cars close to where the supplies will be, he would like to have a sign back there for the vehicles.

Atty. McMorris then distributed copies of the signs around town.

Mr. Soto then spoke about the signage in town and the type of logo that would be used. Mr. Wilson asked if Mr. Soto had spoken to Wilton Town Review. Mr. Nerney said that an electronic transmission had been submitted. There were some concerns about the type of sign. He added that in 2001, the previous owner had approval for two signs. There were concerns about the flat sign and a desire for a more three dimensional sign.

Mr. Nerney went on to speak about the concerns regarding the outside storage. Ms. Gould asked what would be stored outside. Mr. Soto said that it would be big bulk items like salt, grass seed, or dirt. The Commissioners then reviewed the site plans for the outdoor storage.

Mr. Rudolph asked about the location of the outdoor storage in reference to River Road. Mr. Soto then indicated where the location was on the site plans. He wished to see a drawing that

would represent the entire covered area.

Mr. Rudolph asked if the first 38 feet was included in the lease. He was told that this was still controlled by the landlord. Mr. Nerney suggested that the Commissioners drive by the area. Atty. McMorris said that the area would not be visible driving southbound. Also the northbound vehicles would not be able to see it.

Mr. Wilson asked how Mr. Soto planned to mitigate any leakage of the materials into the river.

Atty. McMorris pointed out that there had been another business that had backed up to the river and simply had chain link fence. A sample of material for the fence posting was passed to the Commissioners.

Mr. McCalpin asked if the storage area would be open to the public. Mr. Soto said no.

Mr. Gardiner expressed concerns about a Tru-Value tractor trailer that was parked in back of the building. Mr. Soto said that the reason that the truck was there was that a space that was totally empty was being stocked. Mr. Gardiner expressed concerns about the lack of parking in the area.

Atty. McMorris said right now, there are people in the lot who are assembling the store. Mr. Gardiner had several others concerns about the loading and unloading of stock. Mr. Nerney said that the dynamics of loading zones were difficult in downtown. He said that he had been concerned that there would be multiple deliveries from different companies, but the supplies will be coming from Tru-Value. Discussion followed about the details.

Mr. Gardiner asked about the signs. Mr. Soto said that on River Road, there was a major bank that had a red and yellow sign. Mr. Wilson said that the pin mounted letters look better. Atty. McMorris said that it was important for marketing to use the logo. Discussion followed.

Mr. Wilson said that he believed Mr. Soto had to meet with the downtown Commission. Mr. Nerney said that the Downtown Commission was advisory only. Mr. Wilson said that he would like to see the basic framework of the storage area.

Ms. White asked about the top two feet of the fence. She was told that it would be lattice. She also had some questions about ADA access and the width of the sidewalk.

Mr. Gardiner said that the Staff report and the visuals and response from the attorney were in the file.

#### F. ACCEPTANCE OF NEW APPLICATIONS

1. SUB#909, Warren and Smith, 1030 and 1042 Ridgefield Road, proposed subdivision

The Commission accepted and scheduled the above hearing.

Ms. Gould asked why the meeting was off site. Mr. Nerney said that the Board of Selectmen were holding their meeting in Meeting Room A in the Annex.

*Mr. Wilson recused himself from the meeting at 9:15 p.m.*

#### G. PENDING APPLICATIONS

1. SP#377, Rolling Hills Country Club, Inc., 333 Hurlbutt Street, Amend Special Permit to allow employee housing in existing residence on Club's property

Ms. Gould said that the applicant has met the Commission a third of the way. Mr. Rudolph said that he would like a sense of the application. Ms. Gould said that she could go with the concept of using the building for employee housing, but would like to see the number reduced to 6. Mr. McCalpin said that it was all about the numbers.

Ms. Gould asked about the regulations state that the regulations say only 4 unrelated individuals, granting this would violate the Towns regulations. Mr. Nerney said that he did not see this being a problem since it was under the umbrella of the country club rather than a private residence. The discussion then moved to whether the Commission should issue a determination regarding separate bathrooms for the men and women. Mr. Gardiner reiterated that the applicant had made a commitment and met the Commission half way. Mr. Shiue said that the he did not know if the actual number made a difference because these would be employees who were hired by the Country Club.

Ms. Bufano said that she had concerns about the set up. Mr. Rudolph said that he was originally opposed to this due to public safety. He went on to say that the other four employees would be located in a rented private home. He said that after thinking about it, he would be in favor of granting the application.

It was the consensus of the Commission that the staff should draft the language for the resolution for approval at the next meeting.

#### H. COMMUNICATIONS

There were no items to report at this time.

#### I. REPORT FROM CHAIRMAN AND COMMISSION MEMBERS

There were no reports to present at this time.

#### J. REPORT FROM PLANNER

There was no report to present at this time.

K. FUTURE AGENDA ITEMS

1. SUB#908, Kennedy, 66 Warncke Road, 2-lot subdivision [P.H. October 9, 2012]

L. ADJOURNMENT

MOTION was made by Mr. Hulse, seconded by Mr. Gardiner and carried unanimously (7-0) to adjourn at 9:06 p.m.

Respectfully submitted

Sharon L. Soltes  
Telesco Secretarial Services