

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

WILTON PLANNING & ZONING COMMISSION MINUTES MARCH 11, 2013 REGULAR MEETING

PRESENT: Chairman John Wilson, Vice Chairman L. Michael Rudolph, Secretary John Gardiner, Commissioners Lori Bufano, Marilyn Gould, and Chris Hulse

ABSENT: Bill McCalpin, Bas Nabulsi, Peter Shiue (all notified intended absences)

ALSO

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

PUBLIC HEARINGS

1. SP#383, Redding Railroad Frozen Yogurt, LLC, 142 Old Ridgefield Road, Fast food establishment without drive-in facility

Mr. Wilson called the Public Hearing to order at 7:15 P.M., seated members Bufano, Gardiner, Gould, Hulse, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Gardiner read the legal notice dated February 26, 2013; and he referenced a 2-page Planning and Zoning Staff Report dated March 5, 2013, and a 3-page letter from James A. Ryan (John Meyer Consulting, PC) to Town of Wilton Planning & Zoning Commission, with 3 attachments.

Present were Doug Bayer, attorney; Gregg Roberts, principal; and James Ryan, consultant.

Mr. Bayer briefly reviewed details of the application, noting the proposed location of the self-serve yogurt shop and the fact that no modifications are proposed to lighting or signage on the site. He stated that the only exterior modification would involve installation of a chiller on the roof which would be screened and thus not visible from the street at all. He referred the Commission to interior images/renderings of the store that

P&Z Minutes – 03/11/13 – Page 2

were included with the original application package.

Gregg Roberts, President of Redding Railroad Frozen Yogurt, stated that their product is considered a premium frozen yogurt, and he noted that there would be 8 high-quality machines, with 16 flavors and more toppings than the typical frozen yogurt shop. He noted, in particular, that Peachwave, which is licensed out of Oklahoma, prides itself on cleanliness and customer service as well as a family-centric marketing approach.

In response to questions from the Commission, Mr. Roberts stated that:

- there would be a manager and assistant manager as well as four additional full/part-time employees;
- a total of 6 stores will begin operations in the near future;
- there are a total of approximately 64 Peachwave stores throughout the country;
- the home office sends operations people out to each store to facilitate operations at time of opening;
- parking would be in the rear of the building.

Mr. Ryan also noted that any anticipated signage would be in conformance with regulations/standards previously defined/approved for the building. In that regard, Mr. Nerney explained that standard lettering and a font were established and approved for the site some years ago.

Mr. Roberts responded to additional questions, noting that he does not anticipate any interior signage that would be visible through the windows, and he noted his hope to open in early May.

Mr. Wilson cautioned the applicant that dumpsters located in the rear of the building need to be secured due to flooding conditions that can impact the rear parking lot during significant storm events, and he emphasized the importance of cleanliness to discourage rodent population in the area.

A question was raised regarding adequacy of crosswalks in the vicinity. Mr. Bayer noted that there are two crosswalks near the subject building – one at the Stop and Shop and another at the Village Market intersections.

Mr. Wilson 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 7:29 P.M. the Public Hearing was closed.

REGULAR MEETING

- A. Mr. Wilson called the Regular Meeting to order at 7:29 P.M., seated members Bufano, Gardiner, Gould, Hulse, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. February 25, 2013 – Regular Meeting

MOTION was made by Ms. Gould, seconded by Ms. Bufano, and carried (5-0-1) to approve the minutes of February 25, 2013 as drafted. Mr. Gardiner abstained.

C. SITE DEVELOPMENT PLAN REVIEW

1. SDP, Stop & Shop Supermarket Company, 5 River Road, Proposed alternative signage program

Present was Edward Schenkal, attorney on behalf of the applicant.

Mr. Schenkal reviewed details of the application, noting that two signs are proposed – a free-standing sign measuring 48” x 18” and a wall sign measuring 99.5” x 7”. He explained that the signs will advertise and provide instruction for Stop and Shop’s Peapod grocery pick-up program, whereby customers will be able to place orders online and pick up their bags curbside at a designated pick-up location/time.

Mr. Nerney noted that the parking and free-standing sign would be situated on the south side of the building.

In response to a question from Ms. Gould, Mr. Schenkal explained that queuing lines are not anticipated, noting that customers will just park straight-in at the spaces designated for Peapod pick-up. Mr. Nerney noted further that pick-up times will likely be staggered throughout the day.

Mr. Schenkal noted that the 5-6 parking spaces for Peapod pick-up along the southern elevation of the building would be designated as such via small, as-of-right signs. Several Commissioners noted that those signs were already in place.

Mr. Nerney felt that the concept of having a small sign in front of each parking space is

P&Z Minutes – 03/11/13 – Page 4

not unreasonable, although he did not fully support the directional sign that is proposed for the traffic island.

Mr. Nerney summarized the applicant's proposed signage for the site, referencing the 5-6 small signs already installed in front of the parking spaces along the southern elevation of the building, as well as the one facade sign, the one free-standing sign on the lamp post, and the one small directional sign in the traffic island.

Ms. Gould felt that the proposed signage was reasonable, noting that Stop and Shop needs to market its Peapod program as well as direct its customers to the designated pick-up area on the site.

Mr. Nerney briefly reviewed the concept of the Alternative Signage program which he explained provides the Commission with latitude to approve such signage for commercial sites. He did note that the Alternative Signage Program is usually utilized within the context of planning signage for an entire site as opposed to a specific tenant, although he acknowledged that in this situation Stop and Shop is more of an anchor tenant.

It was the consensus of the Commission to allow staff to move forward and handle the resolution of approval administratively.

Mr. Nerney and Ms. White advised the applicant that an inventory of each sign, along with a rendering and specifics pertaining to each sign's square footage and proposed location, would be necessary.

Mr. Wilson 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 7:50 P.M. the discussion was closed.

D. ACCEPTANCE OF NEW APPLICATIONS

None.

E. PENDING APPLICATIONS

1. **SP#382, Breitling USA, Inc., 206 Danbury Rd and 20 Sharp Hill Rd,
Proposed second floor addition and additional parking**

The Commission briefly reviewed Draft Resolution #0313-3P. Mr. Wilson noted that concerns of Commissioners Nabulsi and Shiue (absent this evening) were taken into consideration in the wording of the resolution's conditions of approval, and both Commissioners were satisfied with the resolution as currently drafted.

MOTION was made by Ms. Gould, seconded by Mr. Hulse, and carried (5-0-1) to adopt as drafted Resolution **#0313-3P** for **SP#382**, effective March 14, 2013. Mr. Gardiner abstained.

WHEREAS, the Wilton Planning and Zoning Commission has received Special Permit application (**SP #382**) from Breitling USA, Inc. to allow the construction of a new 6,808 square-foot, two-story addition and for ten new parking spaces for two properties, property at 206 Danbury Road, in a General Business (GB) District; Assessor's Map #57, Lot #65, 1.5± acres; owned by Breitling Estate Company, LLC and for property at 20 Sharp Hill Road, in a Single Family Residence (R-1A) District; Assessor's Map #57, Lot #68, 1.09± acres; owned by Stephen and Marisa Aulenbach and shown on the plans entitled:

Vicinity Map, Prepared for Breitling Estate Co, LLC, prepared by Douglas R. Faulds, land surveyor, dated November 27, 2012, scale 1"=100', no sheet #.

Zoning Location Survey, Proposed, Prepared for Breitling Estate Company, LLC, prepared by Douglas R. Faulds, land surveyor, dated October 9, 2012, revised January 11, 2013, scale 1"=20', no sheet #.

Topographic Survey, Prepared for Breitling Estate Company, LLC, prepared by Douglas R. Faulds, land surveyor, dated October 9, 2012, scale 1"=20', no sheet #.

Layout & Materials Plan, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated July 9, 2012, last revised January 4, 2013, scale 1"=20', sheet #SP-1.

Grading Plan, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated July 9, 2012, last revised January 4, 2013, scale 1"=10', sheet #SP-2.

Planting & Lighting Plan, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated July 9, 2012, last revised January 4, 2013, scale 1"=20', sheet #SP-3.

Erosion & Sediment Control Plan, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated December 4, 2012, revised January 4, 2013, scale 1"=20', sheet #SP-4.

P&Z Minutes – 03/11/13 – Page 6

Site Details, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated December 4, 2012, revised January 4, 2013, scale not noted, sheet #SP-5.

Construction Area & Phasing Plan, Prepared for Breitling USA, prepared by Richard E. Kent, landscape architect, dated December 4, 2012, revised January 4, 2013, scale 1"=20', sheet #SP-6.

Site Drainage Plan, Prepared for Breitling Estate Company, LLC, prepared by Holt W. McChord, engineer, dated December 5, 2012, revised January 21, 2013, scale 1"=20', sheet #SE1.

Construction Details, Prepared for Breitling Estate Company, LLC, prepared by Holt W. McChord, engineer, dated December 5, 2012, revised January 21, 2013, scale not noted, sheet #DT1.

Proposed New Addition- Ground Level, Prepared for Breitling, prepared by CPG, architects, dated October 25, 2012, scale 1/8"=1', no sheet #.

Proposed New Addition- Proposed New Addition, Prepared for Breitling, prepared by CPG, architects, dated October 25, 2012, scale 1/8"=1', no sheet #.

Proposed New Addition- Elevations, Prepared for Breitling, prepared by CPG, architects, dated October 25, 2012, scale 1/8"=1', no sheet #.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on February 11, 2013, February 25, 2013 and March 11, 2013 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 application is in substantial compliance with the Wilton Zoning Regulations;

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** the Special Permit #382 to allow the construction of a new 6,808 square-foot, two-story addition and for ten new parking spaces for the properties located at 206 Danbury Road and 20 Sharp Hill Road, effective March 14, 2013, and is subject to the following conditions:

GENERAL CONDITIONS:

1. This Resolution does not replace requirements for the applicant to obtain any other permits or licenses required by law or regulation by the Town of Wilton, such as, but not limited to: Zoning Permit, Sign Permit, Building Permit, Certificate of Zoning Compliance; or from the State of Connecticut or the United States Government. Obtaining such permits or licenses is the responsibility of the applicant.

2. In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work or physical improvements required and/or authorized by the approved Special Permit site plan shall be completed within five years of the effective date of this resolution. This five-year period shall expire on March 14, 2018.
3. The applicant shall provide temporary off-site employee parking at 195 Danbury Road during times of construction. Such off-site parking arrangement shall include an employee shuttle service to transport employees between 206 Danbury Road and 195 Danbury Road. Off-site employee parking shall be maintained throughout construction of the exterior shell of the building and during periods of significant site work and such arrangement shall not be terminated until authorized by the Planning and Zoning Department.
4. Approval of the special permit is subject to the acquisition of property at 20 Sharp Hill Road. No zoning permit(s) shall be issued for execution of this special permit approval until such time that the two parcels (206 Danbury Road and 20 Sharp Hill Road) are consolidated and officially recorded in the Wilton Land Records.
5. No commercial building, parking area, light standards, refuse/recycling areas or any other commercial structure or use shall encroach into the residentially-zoned portion of the property. In addition, supplemental evergreen trees or hedges forming a buffer of not less than 50 feet in width shall be provided along the present-day property boundary between 206 Danbury Road and 20 Sharp Hill Road consistent with the applicant's proposed planting plan.
6. The applicant shall screen all proposed and existing rooftop mechanical equipment so as not to be visible from adjoining properties or public rights-of-way.
7. An emergency access connection shall be established between Route 7 and the northerly parking area. For aesthetic considerations, the emergency access connection shall be landscaped so as to conceal its appearance and discourage use by the general public. The emergency connection shall consist of concealed grass or landscape pavers (capable of supporting firefighting apparatus) and an emergency access gate. Town of Wilton emergency responders shall be provided a key to the gate. The roadway curb reveal shall be of such height as to allow for the passing and re-passing of emergency vehicles. Final design and selected landscaping shall be subject to the review and approval of the Planning and Zoning Department.
8. A pedestrian sidewalk, constructed to the American's with Disabilities Act (ADA) standards, shall be constructed along the 206 Danbury Road property frontage.
9. Use of the 20 Sharp Hill Road property shall be conducted in accordance with underlying Residential "R-1A" zoning district allowances. The structure is currently utilized as a single family residence. Pursuant to this Special Permit approval and unless otherwise authorized by the Planning and Zoning Commission, future use of this structure shall be fully compliant with the definitions of "single family dwelling". The term "family" is defined in the Wilton Planning and Zoning Regulations as follows: "One person, or a group of two or more persons related by blood, marriage, legal adoption or legal guardianship, or a group of not more than four unrelated persons, living and cooking together as a single housekeeping unit, including domestic help but excluding boarders or

roomers”. Upon acquisition, the applicant may continue to operate the property as a single family dwelling; however, the structure, unless otherwise authorized by the Planning and Zoning Commission, may not be used as a tourist home, bed and breakfast facility, rooming house, motel or hotel or any other non-permitted use as well as those uses not specified in the zoning regulations. Occupants shall not be charged rent or any other form of fees unless said occupants are bound to a lease agreement, the duration of which shall not be less than twelve (12) consecutive months.

10. Prior to the commencement of construction, the Planning and Zoning Department shall inspect the locations of construction barricade fencing, temporary access drives, construction signage and storage areas. In addition, the applicant shall install tree protection at the existing curb line to protect the tree roots of the two mature sycamore trees from soil compaction.
11. A bond estimate for all site work (excluding buildings) shall be provided by the applicant to the Town Planner, which shall include, but not be limited to sedimentation and erosion controls, grading, drainage, paving, curbing, retaining walls, landscaping, seeding, lighting, and sidewalk and shall include a 10% contingency. The applicant shall furnish to the Town a bond with proper surety, in form and amount satisfactory to the Commission's land use counsel and Wilton's Town Planner, prior to the issuance of any zoning permit.
12. Any plant substitutions or changes from the approved landscape plan shall be subject to review and approval by the Commission's staff.
13. To the extent possible, the applicant shall protect all existing landscaping which is intended to remain following construction. The applicant shall replace any landscaping damages as a result of construction.
14. Any additional light fixtures, shall comply with specifications and requirements outlined in Section 29-9.E of the Zoning Regulations.
15. Erosion control plans shall be strictly enforced. Public roads shall be swept clean of all dirt and debris at the end of each day.
16. There shall be no construction activities on the site on Sundays or major holidays. All construction related activities shall only be performed between 7:30 A.M. and 6:00 P.M. Monday through Friday and between 8:00 A.M. and 6:00 P.M. on Saturdays. This condition does not apply to interior finish work performed within a fully-enclosed building.
17. A copy of this resolution shall be given to the construction manager and shall be available on site during construction.
18. All signage shall comply with Section 29-8.A. of the Zoning Regulations.
19. Any grade level mechanical equipment and/or refuse containers shall be screened from view on all sides.

SUBMITTAL OF REVISED PLANS AND APPLICATION:

20. Three (3) completed revised sets, (collated and bound) shall be submitted to the Commission's office for endorsement as "Final Approved Plan" by the Town Planner

prior to the issuance of a zoning permit. Said plans shall include all revisions noted above and shall bear an ORIGINAL signature, seal and license number of the professional responsible for preparing each plan or portion of it. Said plans shall include the following notes

- a. "According to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this site plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on March 14, 2018."
- b. "For conditions of approval for Special Permit #382, see Resolution **#0313-3P**."

PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE:

- 21. The applicant shall submit an as-built survey prior to the issuance of a certificate of zoning compliance. The as-built survey shall include site and building coverages.
- 22. The applicant shall submit an as-built plan of the subsurface drainage and a letter from the applicant's engineer verifying the installation of the subsurface drainage and the conformance with the engineer's site plan approved by the Planning and Zoning Commission, prior to the issuance of a certificate of zoning compliance.
- 23. The applicant shall submit a letter from the applicant's arborist verifying that the recommendations suggested by the Wilton Tree Warden for the two mature sycamore trees adjacent to two proposed parking areas, which included fine pruning and fertilizing with soluble fertilizer, shall be submitted to the Planning and Zoning staff prior to the issuance of a certificate of zoning compliance.

- END RESOLUTION -

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried unanimously (6-0) to add SP#383, Redding Railroad Frozen Yogurt, LLC as Item #2 to "Pending Applications".

2. SP#383, Redding Railroad Frozen Yogurt, LLC, 142 Old Ridgefield Road, Fast food establishment without drive-in facility

The Commission briefly reviewed Draft Resolution #0313-4P.

MOTION was made by Mr. Hulse, seconded by Ms. Bufano, and carried unanimously (6-0) to adopt as drafted Resolution **#0313-4P** for **SP#383**, effective March 14, 2013.

WHEREAS, the Wilton Planning and Zoning Commission has received an application from Redding Railroad Frozen Yogurt, LLC for a Special Permit (SP #383) for a proposed fast-food takeout restaurant, for property located at 142 Old Ridgefield Road, (a/k/a Assessor's Map 73, Lot 20), located in the Wilton Center "WC" Zoning District and encompassing an area of 1.82 acres of land. The subject property is owned by Wilson Properties, III, LLC and proposed improvements are shown on the plans entitled:

Survey Map of Property, prepared for Wilson Properties, III, LLC, 142 Old Ridgefield Road, prepared by Roland H. Gardner, P.S., dated 5/18/2006, noted scale of 1"=30'.

Building Layout – Peachwave, Wilton, CT, no additional information or scale noted.

WHEREAS, the Planning and Zoning Commission conducted a public hearing and has considered testimony provided at said hearing; and

WHEREAS, the Planning and Zoning Commission finds the proposal character with the established uses in the Wilton Center zoning district; and

WHEREAS, the Planning and Zoning Commission finds the application to be in compliance with the Zoning Regulations of the Town of Wilton.

NOW THEREFORE BE IT RESOLVED that effective March 14, 2013 the Wilton Planning and Zoning Commission **APPROVES** Special Permit #383 for a proposed fast-food takeout restaurant, with the following conditions:

1. This Resolution does not replace requirements for the applicant to obtain any other permits or licenses required by law or regulation by the Town of Wilton, such as, but not limited to: Zoning Permit, Sign Permit, Building Permit, Certificate of Zoning Compliance; or from the State of Connecticut or the Government of the United States. Obtaining such permits or licenses is the responsibility of the applicant.
2. In accordance with Section 8-3(i) of the Connecticut General Statutes, all work or physical improvements required and/or authorized by the approved site plan shall be completed within five (5) years of the effective date of this resolution. This five-year period shall expire on March 14, 2018.

3. With the exception of rooftop mechanical equipment, this approval authorizes the establishment of use rights only and does not authorize changes to the exterior portions of the building, the site or deviation from the previously approved signage for this property.
All new rooftop equipment shall be located in areas acceptable to the Planning and Zoning Commission staff. The applicant shall be required to install rooftop screening so as to conceal any new mechanical equipment if deemed necessary by the Planning and Zoning Commission's staff. In such event, screening shall be satisfactorily installed in advance of the Planning and Zoning Department issuing a Zoning Certificate of Compliance for the project.
4. Two (2) completed revised sets, (collated and bound) shall be submitted to the Commission's office for endorsement as "Final Approved Plan" by the Town Planner prior to receiving a zoning permit. Said plans shall include all revisions noted above and shall bear an ORIGINAL signature, seal and license number of the professional responsible for preparing each plan or portion of it. Said plans shall include the following notes:
 - a. "According to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Special Permit amendment shall be completed within five years after the approval of the plan. Said five-year period shall expire on March 14, 2018."
 - b. "For conditions of approval for Special Permit SP#383, see **Resolution #0313-4P**."

- END RESOLUTION -

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

Mr. Wilson noted that the next regularly scheduled Planning and Zoning Meeting on March 25, 2013 conflicts with the Passover holiday. In light of that scheduling conflict and the fact that there are currently no new applications to be heard, he suggested that the March 25, 2013 Planning and Zoning Meeting be canceled.

MOTION was made by Mr. Wilson, seconded by Mr. Hulse, and carried unanimously (6-0) to officially cancel the Planning and Zoning Meeting scheduled for March 25, 2013.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Gould, seconded by Ms. Bufano, and carried unanimously (6-0) to adjourn at 7:57 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary