

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

WILTON PLANNING & ZONING COMMISSION MINUTES APRIL 22, 2013 REGULAR MEETING

PRESENT: Chairman John Wilson, Vice Chairman L. Michael Rudolph, Secretary John Gardiner, Commissioners Lori Bufano, Marilyn Gould, Bill McCalpin, Bas Nabulsi, and Peter Shiue

ABSENT: Chris Hulse

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. SUB#910, DeRose, 5 Wilton Acres and Wilton Acres (0.32 acres), 2-lot subdivision

Mr. Wilson called the Public Hearing to order at 7:15 P.M., seated members Bufano, Gardiner, Gould, McCalpin, Rudolph, Shiue, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Mr. Gardiner recused himself and left the meeting room.

Mr. Rudolph, acting as Secretary in the absence of Mr. Gardiner, read the legal notice dated April 9, 2013.

Mr. Nabulsi arrived and was seated at 7:18 P.M.

Present were J. Casey Healy, attorney; and Brian P. McMahon, Redniss and Mead, engineer; on behalf of the applicant.

Mr. Healy referenced posted site plans, noting that the applicant is proposing to combine an existing 1.8-acre lot with a 0.32-acre parcel, and to reconfigure the resulting 2.1+/- acre parcel into two conforming lots. He explained that a new residence would be constructed on newly formed Lot 1, but no new development activity is proposed for Lot 2, on which a residence, well, and septic already exist.

Mr. McMahon reviewed the proposed site development plan, noting that a driveway and 5-bedroom home are proposed on the new building lot. Referencing the topography of the site, he explained that a ridge runs along the proposed boundary of the two lots, from which Lot 1 slopes off to the west and Lot 2 slopes to the east. He stated that test holes/pits were completed on the site and a code-compliant septic system was laid out on the new lot and the required reserve system was sited, as required, on the existing lot.

Mr. McMahon also addressed drainage, noting that a storm water mitigation system was designed to collect runoff from the roof and driveway, which would then be processed through an infiltration system, with overflow routed to a level spreader at the far western border of Lot 1.

In response to a question from Mr. Nabulsi regarding placement of the overflow spreader so close to the adjoining neighbor's property, Mr. McMahon explained that placement of the storm water mitigation system is constrained by setbacks that are required between septic and infiltration systems.

Mr. Nerney noted that this is the typical situation (where drainage is located so close to an adjoining property line) that frequently generates drainage complaints to the Town from adjoining property owners.

In response to a question from Mr. Wilson, Mr. McMahon stated that he did not know how close the adjoining neighbor's house is to the property line, but indicated that he could obtain that information for the Commission. He noted for the record that the bulk of runoff water would percolate into the ground and even the excess water (that would be diverted to the level spreader on the western boundary) would eventually percolate down as well. He also noted for the record that percolation rates were very good when test pits were dug.

Mr. Nerney questioned whether it would be possible to relocate the proposed septic system onto the back portion of Lot 1 (northeast of the main portion of the parcel, under the power lines). He felt that this would minimize some of the clearing that is being proposed for Lot 1, thus reducing potential runoff, and could also facilitate relocation of the level spreader farther in toward the interior of the lot and farther away from the neighboring property. He didn't know whether the current utility easement would allow such a use, although he speculated that it would probably not be a problem.

In response to a question from Mr. Rudolph regarding an existing Avalon easement over the property, Mr. Healy stated that the applicant is not proposing anything that would impact that easement. He confirmed that Avalon still holds that easement but clarified that Avalon doesn't own the land itself.

In response to a question from Ms. Gould, Mr. Healy briefly reviewed a history of the parcel, noting that Wilton Acres was originally developed back in the 1940s, prior to the adoption of subdivision and/or zoning regulations, and at that time a right of first refusal was incorporated into the deeds. He explained that Mrs. DeRose and her husband exercised that right of first refusal in 2002 when they purchased the smaller 0.32+/- acre parcel adjacent to their property from then-owner Mrs. Snellman.

Ms. Gould asked whether the applicant would be willing to consider Mr. Nerney's suggestion to pump septic effluent to the back area of the lot. Mr. Healy stated that he would have to look more carefully at the easement to determine whether such a use would be permitted.

Mr. Healy responded to a question from Mr. Wilson regarding sight lines, noting that additional field work needed to be done and the requested information would be provided at the next hearing.

Mr. Nabulsi questioned whether the calculations submitted as part of the Drainage Report would yield the same results if the meadow portion of the site were not included in the analysis. Mr. McMahon was of the opinion that the results should be the same since the meadow portion was included in the analysis of both the existing and proposed conditions; however, he indicated that he could take another look and perform the same analyses with the meadow portion of the site excluded from the calculations.

Referencing the atypical configuration of Lot 1 (i.e. two portions of land connected via a narrow strip), Mr. Nabulsi asked whether regulations impose any limit as to how narrow a connecting portion of land may be in such situations. Mr. Healy did not believe there are any such restrictions in the regulations. However, he noted that there are other requirements that must be satisfied when creating new lots, referencing in particular the minimum square requirement of a 200-foot box in the R-2A zone and a 150-foot box in the R-1A zone. He explained further that no part of any such lot that is less in width than one-third of those minimum requirements (i.e. 50 feet for the subject lot located in the R-1A zone) shall be counted as part of the required minimum lot area. Ms. White cited Section 29-4.B.7 as the relevant section of zoning regulations for the aforementioned rule.

In response to further questions from the Commission and staff, Mr. Healy indicated that 1) there are no present plans to demolish the existing house on the subject property; 2) it is unclear whether fill will be needed for import to/export from the property but the

applicant would be amenable to reasonable conditions regarding same; 3) the applicant will provide further clarification regarding its plans for tree preservation on both lots; 4) the applicant will be happy to restore, per Town guidelines, an existing stone wall that is on the right-of-way adjacent to the road.

Mr. Nerney noted for the record that a neighbor to the south had requested a continuance of the hearing until the next meeting.

Mr. Healy advised the Commission that he had just received the Health Department's preliminary approval, as well as the Fire Marshal's determination that a cistern would not be required since the property has ample access to hydrants on Route 7.

Mr. Wilson asked if anyone in the audience wished to speak for or against the application.

Bruce Resnick, 7 Wilton Acres, stated that he lives directly across from the subject property. He questioned whether the proposed lots would be compliant with zoning rules/regulations, referencing a typo on the Planning and Zoning Staff Report that was noted earlier in the evening and which incorrectly noted a 1.5-acre existing parcel instead of a 1.8-acre parcel. He also asked for clarification as to the mission of the Planning and Zoning Commission (PZC), i.e. as to whether it addresses all concerns or just those pertaining to zoning.

Mr. Nerney explained that the PZC acts in an administrative capacity in such a situation, relying on specific standards set forth in the zoning and subdivision regulations. He explained that total acreage is not the only standard considered, but that there are minimum square requirements as well as setback and building/site coverage limitations, which insure that the proposed lots will be developed consistent with the character of Wilton's one-acre zoning district. He referenced additional characteristics that are also considered, including drainage, wetlands, and slopes.

Mr. Resnick expressed concern with preserving the single family look/feel of the neighborhood. In that regard, he expressed specific concern with already increasing light pollution and the visibility of the multi-family zone nearby.

Mr. Rudolph asked to see a survey of existing conditions on the site. Mr. Healy noted that the site survey already submitted to the Commission was stamped/certified by an engineer at Redniss and Mead, although he agreed to provide same as requested.

Mr. Resnick questioned whether the existing Avalon easement should be subtracted out when calculating total lot acreage since that portion of land is not actually buildable. Mr. Nerney and Mr. Wilson explained that Mrs. DeRose still owns and pays taxes on the easement portion of the parcel.

In response to another question from Mr. Resnick regarding the enforceability of the restrictive covenant pertaining to rights of first refusal (referenced earlier), Mr. Nerney explained that Town Commissions cannot enforce private protective covenants.

Referencing the issue of light pollution, Mr. Resnick questioned whether anything could be done (e.g. replanting of trees, etc.) to mitigate the anticipated tree loss that he felt would exacerbate the already existing light pollution issue. Ms. White felt that it would be somewhat difficult to preserve trees along the northern border given the configuration of the lot and the location of the proposed septic and drainage. In that regard, Mr. Nerney noted that this might be another reason to move the septic onto the back portion of the lot as suggested earlier.

Mr. Nabulsi asked Mr. Resnick if there have been any water/drainage issues to date. Mr. Resnick indicated that he was not aware of any such issues. Ms. Gould stated that she recalled some ponding in the area of the roadway a number of years ago.

Mr. Rudolph referred for the record to a memorandum dated April 22, 2013 from Jennifer M. Zbell to Daphne White; a letter dated April 9, 2013 from Patricia Sesto to J. Casey Healy; a letter dated April 12, 2013 from Maria Bukowski to Chairperson, Wilton Planning and Zoning; a 3-page Planning and Zoning Staff Report dated April 16, 2013; and a 3-page response letter dated April 18, 2013 from J. Casey Healy to Planning and Zoning Commission.

There being no further comments from the Commission or the public, at 8:10 P.M. the Public Hearing was continued.

Mr. Gardiner returned to the meeting room.

REGULAR MEETING

A. Mr. Wilson called the Regular Meeting to order at 8:10 P.M., seated members Bufano, Gardiner, Gould, McCalpin, Nabulsi, Rudolph, Shiue, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. April 8, 2013 – Regular Meeting

MOTION was made by Ms. Gould, seconded by Ms. Bufano, and carried (6-0-2) to approve the minutes of April 8, 2013 as drafted. Commissioners McCalpin and Nabulsi abstained.

C. SITE DEVELOPMENT PLAN REVIEW

1. SDP, Wilson Properties III, LLC, 142 Old Ridgefield Road, Proposed Alternative Signage

Present was Lee Wilson, owner/applicant.

Mr. Nerney briefly reviewed details of the application, noting that the subject building contains mixed use office and retail space. He explained that the property is unique in that its front entrance is off Old Ridgefield Road, but most people enter from an entrance and parking in the rear. Since there is no signage in the rear, Mr. Nerney explained that the applicant is requesting approval to install a directory sign in the rear and an awning over the rear main entrance.

Mr. Nerney referred to a rendering of the proposed awning, noting that a portion of the awning would advertise the new tenant “Peachwave”, and the remaining awning space would be reserved to accommodate a new tenant when the current vacant office space is filled. He noted that the Village District Design Advisory Committee was advised, as required by zoning regulations, and no issues were raised.

Ms. Gould felt that the proposed signage seems perfectly appropriate, noting further that it would not be visible from the street.

Mr. Nabulsi recalled a Commission discussion from some years ago regarding an application for duplicate signage (front and rear) for the building across the street from the subject property, and he asked for clarification as to what language in the regulations, specifically, gave the Commission cause for concern at that time and what the ultimate outcome was. Mr. Nerney stated that the signage application was approved at that time. Ms. White recalled further that the building in question was located on a corner and was not permitted to have signage on both Old Ridgefield Road and Godfrey Place, if they also wanted to have signage in the rear.

Staff distributed copies of Draft Resolution #0413-1Z for Commission review. Mr. Nerney noted for the record that the application meets the requirements for alternative signage as defined in zoning regulations.

It was the general consensus of the Commission to approve the application for signage and awning, as submitted.

MOTION was made by Mr. Nabulsi, seconded by Ms. Gould, and carried unanimously (8-0) to adopt as drafted Resolution #0413-1Z for SDP for Alternative Signage at 142 Old Ridgefield Road, effective April 25, 2013.

WHEREAS, the Wilton Planning and Zoning Commission has received an application from Wilson Properties III, LLC for an alternative signage program associated with an existing office/business center, located at 142 Old Ridgefield Road; in a Wilton Center District (WC), Assessors Map #73, Lot# 20, consisting of 1.822 acres; owned by Wilson Properties III, LLC and shown on the plans entitled:

Single Sided Freestanding Sign (rendering) - Prepared for Wilson Commercial, Prepared by The Rising Sign Company, Inc., dated April 13, 2013, drawn at a scale 1" = 1'.

Single Sided Freestanding Sign (simulation) - Prepared for Wilson Commercial, Prepared by The Rising Sign Company, Inc., dated April 13, 2013, drawn at a scale 3/8" = 1'.

Awning Simulation Photograph – no information provided.

WHEREAS, on April 22, 2013 , the Wilton Planning and Zoning Commission reviewed plans and documents pertaining to the proposed establishment of a signage on the easterly elevation of property located at 142 Old Ridgefield Road; presented pursuant to the alternative signage requirements set forth in the Town of Wilton Zoning Regulations; and

WHEREAS, the Wilton Village District Design Committee reviewed applicable plans and documents and has provided the Commission with communications pertaining to their review and such information has been taken into consideration by the Commission; and

WHEREAS, the Wilton Planning and Zoning Commission has determined that the property has certain unique characteristics with distinct building entrances from both Old Ridgefield Road and along the building's easterly elevation which adjoins the primary vehicle parking area; and

WHEREAS, the Wilton 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 alternative signage plan, located at 142 Old Ridgefield Road, effective April 25, 2013 and subject to 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 Plan shall be completed within five years of the effective date of this resolution. This five-year period shall expire on April 25, 2018.

3. All signage shall be consistent with representation provided to the Planning and Zoning Commission; including but not limited to font, color, materials, lighting, size, height and requested location.
 - a. The approved signs shall be designed and erected in accordance with the aforementioned plans, as shown on the submitted signage plan. The nature and size of the individual signs are as follows:
 1. The single-sided freestanding sign shall be limited to 20 square feet (31” x 56”).
 2. The canopy sign shall consist of one awning located over the rear northerly entrances to Peachwave and an immediately adjoining future tenant. The canopy sign shall contain the name of “Peachwave” as depicted on the photograph simulation and, upon lease, the name of the future tenant.
4. Sign illumination along the easterly elevation, if any, shall be limited to the proposed freestanding sign only. All lighting shall be situated at grade level and light casings shall be concealed through the use of plantings acceptable to the Commission’s staff.

Submittal of revised plans and application prior to the issuance of a zoning permit:

5. 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. 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. "In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Sign Plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on April 25, 2018."
 - b. "For conditions of approval for Sign Plan, see **Resolution #0413-1Z.**"

- END RESOLUTION -

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

1. **SUB#910, DeRose, 5 Wilton Acres and Wilton Acres (0.32 acres), 2-lot subdivision**

Tabled.

F. COMMUNICATIONS

1. John D. Paul, 426/436 Danbury Road, Proposed conceptual modifications to existing Adaptive Use regulations

Mr. Paul explained that he had been on the Planning and Zoning Commission when the concept of adaptive use was introduced and regulations were adopted, noting further that his was the first building to obtain adaptive use status. He reviewed the three major reasons for the adoption of such regulations at that time:

- 1) To preserve historic properties (he noted that the Town had no Historic Museum, nor did it have Lambert House or Ambler Farm at that time)
- 2) There was very little office space in the Town at that time and adaptive use regulations provided opportunity to increase such space
- 3) There were no rental properties in the Town at that time and these regulations addressed that issue as well.

Mr. Paul stated that a metamorphosis has occurred in Wilton over the past several decades since adaptive use regulations were enacted, noting that back then there was only one day per year (The Danbury Fair) when Route 7 was packed with traffic; Route 7 was just a two-lane roadway with no stop lights; there was no multi-family housing or office buildings at that time.

He stated that it is now time to take another look at these regulations. Referencing his own adaptive use building which he has owned for 34 years, he noted that there is very little he can do with it. He explained that there is no market for the space in today's environment, citing the lack of an elevator and lavatory facilities, as well as Route 7's undesirability as a rental location. He also referenced a problem with site coverage limitations imposed by current adaptive use regulations, resulting in a prevalence of gravel driveways/walkways on these properties (since gravel does not count towards site coverage). He explained that these gravel surfaces frequently lead to pothole and plowing issues, as well as navigation problems for persons wearing high-heeled shoes.

Mr. Paul explained that he did not have a formal proposal to present this evening, although he indicated that he was considering working with DE-5 and DE-10 zoning regulations and modifying/applying them to adaptive use properties along Route 7, with perhaps some tax advantages offered to property owners willing to maintain these older historic buildings. He felt that the existing adaptive use regulations are no longer practical and he indicated a desire to work with the Commission and Town Counsel to develop updated regulations more in keeping with present day needs.

Ms. Gould stated that about four years ago she had submitted her own ideas/recommendations for modifications to adaptive use regulations, and she indicated a

desire to be involved in this discussion within the next month or two. She noted that her point of view is substantially different from Mr. Paul's with respect to the degree of development that he would allow on such properties, but she thought that perhaps a compromise could be reached that would benefit the owners of these properties as well as the Town.

Mr. Wilson suggested that the Commission move forward on this matter in a timely fashion.

Mr. Rudolph suggested that Mr. Paul put his thoughts in writing and submit them to the Commission for review. Mr. Paul indicated that he did have a draft proposal available this evening for Commission consideration and he distributed copies of same.

It was determined that Ms. Gould's suggestions/recommendations of several years ago should also be made available to the Commission for review. Staff indicated that it would forward copies of same to the Commission.

Lee Wilson, present in the audience, spoke in support of revising/revamping existing adaptive use regulations, noting that it would be very appropriate and very timely to revisit these regulations at this time. As a member of the Town's newly formed Economic Development Commission, he stated that he would be surprised if such a proposal were not supported by that Commission.

It was the consensus of the Commission to begin looking at this matter during its next regularly scheduled meeting on May 13, 2013. It was also suggested that perhaps a letter could be written by an interested Town resident/property owner to the editor of the local newspaper to generate some awareness/interest in the matter.

Mr. Wilson referenced a letter that he previously sent to the Commission addressing development of the Cannondale area, and his thoughts as to how the Town should proceed in that regard. He felt that the Town should take a leadership role in such development, noting in particular the many valuable aspects of the Cannondale area (e.g. great topography, public utilities, river, railroad station, etc.). He stated that he would send another copy of that letter to the Commission.

2. SUB#909, Kevin E. O'Brien, 1030 and 1042 Ridgefield Road, Request for 90-day extension to file subdivision map

Mr. Nerney briefly reviewed details of the requested extension, noting that under Connecticut Statutes an applicant has 90 days to file a subdivision map. He explained that State Statutes permit such an extension, as requested, and he noted that it has been fairly standard for the Commission to approve such requests in the past.

It was the consensus of the Commission to grant the request for a 90-day extension to file the subdivision map for SUB#909.

3. SUB#908, Kennedy, 66 Warncke Rd, Request for 90-day extension to file subdivision map

Mr. Nerney noted that this is essentially the same request as was just heard for SUB#909.

It was the consensus of the Commission to grant the request for a 90-day extension to file the subdivision map for SUB#908.

4. MR#138, 8-24 Mandatory Referral, Belden Hill Road, to extend sewer service from Miller/Driscoll School to Sisters of Notre Dame property

Mr. Nerney reviewed details of the mandatory referral, noting that the Sisters of Notre Dame (SSND) on Belden Hill Road have a failing waste water treatment system and are under orders from the DEEP to correct the problem. He explained that, originally, consideration was given to connecting the SSND property to Norwalk public sewer by running a sewer line down Belden Hill Road into Norwalk, but now that the line is coming up Wolfpit Road to Miller/Driscoll School, the SSND are requesting permission to tie into that line.

Mr. Nerney referenced some previously expressed concerns that granting such permission would convey to any future owner (if the SSND were to sell the site) the same legal right to connect to the sewer line on Wolfpit Road, which could potentially lead to a more intensive use of the site in the future. On the other hand, he noted that granting such permission now could actually help to preserve the existing facility, which he noted is currently quite active and close to full occupancy. He explained that the site is a retirement facility for retired nuns as well as the Order's primary conference center east of the Mississippi. He noted further that it is the Town's understanding that the Order plans to maintain the facility for the foreseeable future.

Mr. Wilson stated that he personally did some research on the facility and discovered that it is hugely active and important, and the Order has no interest in decommissioning it or changing any aspect of it in the future. He also noted that First Selectman Bill Brennan

advised him that the pipe would be smaller than standard size (i.e. a smaller capacity feeder).

It was the general consensus of the Commission, by a vote of (7-0-1), to provide a favorable recommendation to the Board of Selectmen regarding the proposed sewer service extension from Miller/Driscoll School to the SSND property. Ms. Gould abstained.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

Mr. Nerney advised the Commission that he received a request from Robinson and Cole law firm, representing Verizon, to widen (but not increase the height of) an existing monopole tower/flagpole at 50 Danbury Road in order to accommodate additional telecommunications carriers. He noted that similar tower modifications, completed at the Caraluzzi's site in North Wilton, came under the jurisdiction of the Connecticut Siting Council, while the proposed modifications fall under the purview of the Town because of the flagpole's rooftop location.

After some discussion, the Commission determined that the requested increase of 8" in circumference would be relatively inconsequential to the existing overall circumference size of the flagpole.

It was the consensus of the Commission to allow staff to handle the application administratively.

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Mr. McCalpin, seconded by Mr. Wilson, and carried unanimously (8-0) to adjourn at 8:50 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary