

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

WILTON PLANNING & ZONING COMMISSION MINUTES JUNE 24, 2013 REGULAR MEETING

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

ABSENT: Commissioners Hulse, McCalpin, and Shiue (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. Remand of SP#191E, Montessori Association, Inc., 34 Whipple Road, pursuant to directive of the CT Superior Court**

Mr. Nabulsi recused himself and left the meeting room.

Mr. Wilson called the Public Hearing to order at 7:19 P.M., seated members Bufano, Gardiner, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date.

Present were Joseph P. Williams, Attorney; Holt McChord, engineer; Kate Throckmorton, landscape architect; Steve Kranzlin and Tracy Castelli, Montessori Board of Trustees.

Mr. Williams noted that the applicant had developed two alternative site plans, Plan SE2C (2C) and Plan SE2D (2D), in response to a Commission request at the last hearing for a plan with a landscape buffer of approximately 30 feet. He briefly reviewed details of both plans, noting that Plan 2C incorporates a 25-foot landscape buffer on the north side, while Plan 2D proposes an 18-foot buffer on the north, along with a loop connecting the upper and lower parking areas.

He referenced his response letter to the Commission dated June 21, 2013, accepting most conditions of approval as set forth by Robert Nerney in his letter of June 20, 2013, with the exception of a proposed ban on all parking along the School's entire frontage, and also the applicant's proposed replacement of a security gate with a surveillance video system and associated signage. He felt that the all-inclusive parking ban was not part of the remand order of the Court and would negatively impact not only the applicant but also the surrounding neighborhood. He also explained that the proposed surveillance video would be less visually intrusive, would have fewer mechanical issues and would better address the issue of pedestrian trespass on the property.

Ms. Gould arrived and was seated at 7:25 P.M.

Mr. Wilson noted for the record that he had listened to the audio recording of the last meeting.

Mr. Williams also noted that the applicant had reduced the proposed driveway width to 20 feet, as requested by the Commission, and had reduced the radii at the entrance/exit. He indicated that they could replace the previously proposed wooden stockade fence with evergreen trees, as well as remove the cobra light pole from the pull-in parking space area on Whipple Road.

In response to a question from Mr. Rudolph regarding the applicant's objection to a full parking ban along Whipple Road, Mr. Williams explained that while there is agreement to remove the perpendicular parking on the south end of Whipple Road, the applicant still wants the ability to continue parking along the street during special, school-wide events when the new parking lot will not be able to fully accommodate overflow parking.

Mr. McChord submitted copies of revised Plan 2D into the record. He also addressed a question from Mr. Rudolph regarding the estimated number of cars that could be parked along Whipple Road during the large, overflow parking events at the School. He stated that he did not know the number exactly, although he estimated that cars could be parked every 20 feet or so. He noted that prohibition of parking in front of the School could have a greater impact on the remainder of the neighborhood since it would likely result in cars being parked on the other side of the road during special events. He also felt that such a parking ban would affect the applicant's right to use their property.

A discussion ensued as to whether the applicant has a right to park on the street. The applicant noted that the road actually meanders onto School property in some areas, although Ms. Gould noted that police often prevent street parking for private residences. Mr. Nerney explained that the Commission's intent wasn't to displace parking from the southern end of the road (where parking will now be prohibited) onto other parts of the road or across the street, noting his belief that this project would eliminate the need to park anywhere on the street. He stated that the proposed condition really gives ultimate authority to the Police Commission, noting further that police could always be petitioned

to restrict parking on a public road since they are the traffic authority in Town.

Mr. Williams explained that the net increase to parking is actually about 37 spaces, after factoring in the head-in spaces that will be removed from Whipple Road. Rather than imposing a condition, he asked if the Commission could just suggest engaging in a discussion with the Police Commission regarding the matter.

Mr. Nerney stated that the Commission would want to avoid any type of three-party condition (i.e. the applicant, the Commission and the Police), noting that perhaps a better approach would be a recommendation to discuss the matter with the Police Commission.

A discussion ensued as to whether the Commission should impose a condition requiring the applicant to provide off-site parking with shuttle buses during large events. Mr. Nerney recalled discussions in the past about trying to utilize busing for sporting or larger event venues. Ms. Gould felt that the Commission should condition off-site parking if large events cannot be accommodated by existing parking on the site.

Town Counsel Pat Sullivan, present in the audience on behalf of the Commission, cautioned the Commission regarding any perceived inconsistency between the Planning and Zoning Commission and the Police Commission. She confirmed that the ultimate responsibility regarding on-road parking is with the Police Commission. In response to Ms. Gould's proposed conditioning of off-site parking during large events, Ms. Sullivan noted that the threat of a ticket/citation should provide motivation to comply with parking restrictions, if imposed by the Police. She also expressed concern with the complications of adequately defining a "large" School event.

Mr. Williams noted further that the School doesn't have any extra property or a bus to easily satisfy such a condition.

In response to a question from Mr. Wilson, Mr. Kranzlin explained that the additional 30 students would not necessarily translate to a need for 30 additional parking spaces since there may be sibling situations. He noted that the School does use some of its grassy areas for overflow parking, and sometimes hires people to help contain/control traffic on the site as well.

Mr. McChord reviewed the two plans (2C and 2D) in detail, referencing posted plans. He noted that Plan 2C provides a 25-foot buffer on the north side and a curvilinear driveway; replaces the wooden stockade fence with evergreen trees; and results in the loss of 9 additional trees. He explained that Plan 2D is another possible alternative which provides a loop connection between the two parking areas but results in a buffer of only 18 feet. He noted that Plan 2D results in the loss of only 6 trees.

In response to a question from Mr. Rudolph as to why a 30-foot buffer plan was not

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provided, as he had requested, Mr. McChord explained that even the 25-foot buffer plan was very tight with respect to siting the reserve septic system on the site.

Mr. Nerney felt that Plan 2D, which provides the loop connection between parking areas, would allow for improved traffic circulation by removing dead-end parking aisles. Overall, he felt it would be a safer, better design.

Ms. Gould referenced Philip Goiran's modified Neighborhood Plan revised June 11, 2013 which would reduce the proposed driveway width to 12 feet and would reduce glare from headlights by incorporating one-way traffic circulation on the site. She asked whether the applicant had considered this plan.

Mr. McChord stated that the applicant had considered Mr. Goiran's plan but had rejected it for a number of reasons, including a zero-foot buffer, significant septic system impacts/considerations, safety concerns with the combination of one-way traffic circulation and 90-degree parking, and a need to reapply to both Health and Engineering Departments for additional approvals.

Mr. Kranzlin confirmed that Mr. Goiran's plan was presented to Parks and Grounds and the School Board of Trustees, citing additional concerns regarding pedestrian safety and potential bottleneck buildup in the center of the site. He noted further that the School plan's curb cut would be only 20 feet versus 25 feet on Mr. Goiran's plan, and there would be fewer headlights (i.e. glare) exiting the site at the same time with the School's plan since traffic would be dispersed from more than one curb cut.

In response to a question from Mr. Rudolph, Mr. Kranzlin indicated that there are about 6 large events with "overflow" parking impacts in a year.

Mr. Nerney asked how the applicant would suggest the Commission impose a condition for off-site improvements in connection with the applicant's proposed screening at the Weatherwax property, noting that such an arrangement is private. Mr. Williams agreed that it is a private arrangement between the two parties, but he felt that it could be noted in the resolution of approval and the applicant would address it directly with Ms. Weatherwax.

Ms. Throckmorton submitted a revised plan (PP1) into the record in connection with proposed site plan 2C (with 25-foot buffer). She briefly reviewed details of the plan, noting in particular two dense rows of spruce/hemlock trees along the street; the addition of a large shade tree to replace the existing large tree that would be lost; additional trees/shrubs along the mouth of the driveway; and replacement of the solid wood fence with landscape screening. She noted that proposed landscaping would be very similar, with some minor changes, if plan 2D (with 18-foot buffer) were approved instead.

In response to questions from Mr. Wilson regarding lighting, Ms. Throckmorton explained that lighting has become increasingly sophisticated, noting in particular that proposed lighting is equipped with directional lenses and has no backflow. Addressing the concern of neighboring homes sited well below the elevation level of proposed lights, she explained that as topography goes up, so too are trees elevated along with the land and are positioned directly below the lights to address such screening issues. She noted further that lenses are completely within a blocked fixture and all illumination would be focused downward.

Mr. Nerney asked whether the applicant had given any consideration to the use of LED lights. He noted that such lighting (recessed into the canopies) is currently being utilized at the Gulf and Citgo stations in Town, with all light directed down onto the pavement and virtually no resulting light spillage. Ms. Throckmorton noted that LED lighting was not available when these plans were originally developed. Mr. Wilson encouraged the applicant to look into such lighting and the accompanying economic benefits that would result as well.

Mr. Rudolph asked if the applicant plans to screen with shrubbery the area where head-in parking spaces will be removed.

Mr. Williams stated that he had no issue with the row of shrubs proposed for that area of the site in Mr. Nerney's memo of June 20, 2013, and he noted that the School would be willing to use LED lights as suggested.

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

Bonnie Dickenson, 23 Whipple Road, expressed frustration, questioning why the School will be permitted to have another curb cut as well as much wider paved driveways than residential driveways, and she felt that there was altogether too much emphasis being placed by the applicant on tree preservation. She was very concerned with the changing character of the neighborhood, which she felt was very unfair to neighbors. She explained that a local realtor estimated the negative impact of the School's proposed site modifications on surrounding properties at approximately \$40,000 per property. She expressed hope that the Commission could do something to protect the property rights of surrounding neighbors.

Barbara Valk, 43 Whipple Road, stated that she wants "no parking" signage in front of her driveway as well as prohibition of parking in the fire lane by the playground area. She felt that the School should require parents to park in approved parking spaces before they resort to parking along Whipple Road. She expressed concern with safety, citing cars that zoom along to the end of the roadway and unload little children onto the street. She encouraged compliance on the part of the School as well as appropriate signage along Whipple Road.

Susan Russell, 44 Erdmann Lane, stated that “no Parking” signs should be installed in the area where head-in parking will be removed. She also asked for clarification regarding if/when lights need to be turned off on the site.

Sari Weatherwax, 19 Whipple Road, stated that she was appalled that Mr. Goiran’s plan was not embraced by the School, noting that it was workable and would have less impact on the neighborhood. She felt that the School should reconsider Mr. Goiran’s plan, referencing the aforementioned \$40,000 loss that would be impacting each of the properties as a result of the School’s proposals. She expressed frustration that the neighbors will always be stuck with this “wreckage” [Ms. Weatherwax’s reference] whereas persons representing the School/applicant will be gone in a few years. She noted that the current 1500 vehicle trips per day will be increased by an additional 120 vehicle trips per day in connection with the increasing enrollment. She questioned the use of surveillance cameras as opposed to the previously proposed gate, particularly since the recorded footage would not likely be looked at until the next day. She felt that the School now dominates the street completely, and she cited damage/erosion on her property which makes it difficult to sell as is.

Philip Goiran, 23 Whipple Road, expressed frustration that the School never emphasized what he referred to as a “light touch” with respect to the impact of its plans on the surrounding neighborhood. He stated that his plan has a small-scale, light touch impact that attempts to balance/keep the interests of all in mind. He objected to the School’s proposed driveway which he felt has an institutional imprint, and the fact that its plan exits vehicles onto Whipple Road in two areas whereas his plan proposed only one exit onto Whipple Road. He felt that part of the reason the School does not want to consider his plan is that it doesn’t want to go through the Town’s approval process a second time. He asked that the Commission consider whether the School’s plan is addressing the needs of the neighborhood at all or is just focusing on the needs of the School.

In response to a question from Mr. Rudolph, Mr. Goiran acknowledged that the driveway proposed in his plan has no buffer but he explained that it is designed on a residential scale rather than on an institutional scale.

Mr. Williams explained that the applicant has been working with consultants since the court remanded the application back in order to address/balance the many issues discussed this evening, acknowledging that the plan is not perfect and it is difficult to please everyone. He noted that relocating the reserve septic system from where it is currently sited would be problematic for the School. He felt that the additional plan alternatives subsequently proposed by the School to address neighbors’ concerns/issues represent a compromise since the School’s preferred plan was the original Plan A.

Mr. McChord noted further that Mr. Goiran’s first plan generated conflicts between storm

runoff and septic system locations, and didn't eliminate traffic, which he noted would be the same regardless of which plan is implemented.

Mr. Goiran disagreed, noting that 1-way traffic is less than what is generated by 2-way traffic circulation.

In response to a question from Ms. Gould and addressing comments made earlier by various residents, Mr. Kranzlin noted for the record that the School has no plans to purchase property to the north. He explained that the School had previously looked into that option for purposes of coverage but could not agree on price.

Ms. Valk expressed great concern if the School were to someday purchase the property to the north, which she felt would totally tip the balance of the community to the detriment of the neighbors.

Ms. Russell expressed concern, questioning whether an adjacent property automatically falls under a Special Permit that was granted previously for the original property.

Mr. Gardiner referred for the record to a memorandum dated June 20, 2013 from Robert Nerney to Planning and Zoning Commission; a letter dated June 20, 2013 from Philip D. Goiran to Planning and Zoning Commission, with two attachments; a letter dated June 21, 2013 from Joseph P. Williams to Wilton Planning and Zoning Commission; and a Site Grading and Soil Erosion Control Plan (Drawing SE2C) dated June 24, 2013.

There being no further comments from the Commission or the public, at 8:39 P.M. the Public Hearing was closed.

The Commission took a short recess at 8:40 P.M.

The Commission returned from recess at 8:44 P.M.

REGULAR MEETING

Mr. Nabulsi returned to the meeting room.

- A. Mr. Wilson called the Regular Meeting to order at 8:44 P.M., seated members Bufano, Gardiner, Gould, Nabulsi, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. June 10, 2013 – Regular Meeting

MOTION was made by Mr. Rudolph, seconded by Ms. Bufano, and carried (4-0-2) to approve the minutes of June 10, 2013 as drafted. Commissioners Gardiner and Wilson abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

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

Mr. Gardiner recused himself and left the meeting room.

The Commission discussed the application in detail.

Ms. Gould felt that the application falls under “odd shaped lots” regulations which give the Commission discretion as to how regulations pertaining to general lot requirements shall be applied. She expressed concern with setting an undesirable precedent with respect to such lot configurations, noting that she is opposed to approving the subdivision application as proposed.

Mr. Nabulsi noted that if the Commission concludes that the application falls under the “odd-shaped lots” classification, then the Commission has the authority to determine how the regulations are applied; he noted that such a determination does not necessarily mandate a denial. He stated that if the Commission is advocating for denial of the application, then it would need to articulate on what basis the application is being denied (i.e. how the Commission is applying the regulations in that instance).

Ms. Gould felt that the proposed lot configuration is in opposition to the intent of subdivision regulations and what they mean to establish, and is therefore not in the best interests of the Town or its residents. She stated that she knows of several such lots in Town where such an approach could be utilized; thus her concern for setting a bad precedent going forward.

Responding to a question from Mr. Wilson regarding the 150-foot square requirement in the one-acre zone, Ms. Gould felt that a lot could be significantly under the residential one or two-acre size minimum (although compliant with the minimum square requirement for the respective zone), and thus still require attachment to a portion of a neighboring property, as per the subject application.

Mr. Rudolph noted that the narrow panhandle portion of the subject lot is not permitted, per zoning regulations, to be counted toward minimum lot area nor can it be considered in calculating site coverage. He stated that notwithstanding these limitations the lot is still able to comply as a legal lot and, therefore, he was in favor of approval. He noted further that in his opinion the panhandle portion is contiguous.

Mr. Nerney referenced Section 29-4.B.3 (Odd Shaped Lots), noting that the regulations do not exclude such lots from approval as legal lots; rather, determination as to whether required lot criteria are satisfied is left to the discretion of the Commission. With respect to the proposed lot, he noted that the required minimum square is met, required setbacks work, and the lot conforms with respect to land area that is required to be discounted from density calculations.

Mr. Nabulsi explained that he was originally unfavorably disposed toward the application but after listening to the applicant and carefully studying the regulations, he was persuaded that the proposed lot is in compliance with regulations. He noted that if the yard portion to the east (connected by the panhandle piece) were directly behind the larger portion of the lot there would be no conversation/controversy. He felt that the side portion of the property does not place the fundamental rectangular piece out of compliance, noting further that the lot as configured also poses no issues with respect to required yard setbacks. He felt that the Commission does not have authority to deny an application that is compliant to the letter of the regulations, based on a concern for future precedent. He stated further that if the Commission is concerned, then it should revisit its regulations with this particular issue in mind.

A straw vote was taken and the Commission voted (4-1) in favor of approving the application. Ms. Gould opposed, noting that she would probably abstain from the final vote.

Staff was directed to prepare a resolution of approval for vote at the next meeting.

2. Remand of SP#191E, Montessori Association, Inc., 34 Whipple Road, pursuant to directive of the CT Superior Court

Mr. Nabulsi recused himself and left the meeting room. Mr. Gardiner returned.

Mr. Rudolph read the last paragraph on page 53 of the Memorandum of Decision in “*The Grumman Hill Montessori Association, Inc. v. The Planning and Zoning Commission of Wilton and The Town of Wilton*”, which summarized the decision of the court in the matter and the extent to which the Commission could impose additional conditions/modifications.

In light of the above excerpt, Mr. Rudolph expressed sympathy and understanding of neighbor concerns but also recognized the limitations imposed by the court upon the Commission.

Mr. Wilson agreed that the Commission’s hands are tied, but he noted that he would have been very happy if Mr. Goiran’s alternate plan could have been implemented by the School. Ms. Gould expressed disappointment in that regard as well.

Ms. Bufano expressed a preference for plan version 2D which she felt addressed the issue of dead-end parking spaces.

Mr. Rudolph noted that although he had asked for a 30-foot buffer plan (given his preference for enlarging, rather than decreasing, the buffer), he too was inclined to approve version 2D with an 18-foot buffer, noting further his sensitivity to septic reserve requirements and the inherent limitations that are placed on properties as a result. He noted for the record that while the issue of removing the head-in parking on Whipple Road has been addressed, he did not entirely agree that other parking along Whipple Road should not be blocked via police signage. However, he acknowledged that the Commission doesn’t seem to have real control/authority over the issue of road parking and related signage.

Ms. Gould felt that neighbors could petition police for “no parking” signs along the roadway.

Mr. Rudolph noted that, per the applicant’s testimony, overload parking apparently occurs only six times per year.

It was the general consensus of the Commission that plan 2D represented the best of the three plan alternatives presented.

In response to concerns expressed by Mr. Rudolph regarding the lack of plan details for the southern portion of Whipple Road, particularly with respect to the restoration of the

head-in parking area where spaces will be removed, Mr. Nerney recalled Mr. Williams' comment during the hearing that a complete plan of the area was submitted by the applicant as part of its original application package.

Staff was requested to prepare a resolution approving plan 2D, with the understanding that although a specific landscaping/screening plan was not submitted for plan 2D, such details can be addressed via the resolution. Mr. Wilson also noted the applicant's agreement to install LED lighting on the site, with the added requirement that the beam will be blocked from off-site properties and shall be focused with a lens in the housing. Mr. Nerney noted further that while the applicant's proposed screening of the Weatherwax property cannot be included as a condition of approval, it can be acknowledged within the resolution.

Mr. Nabulsi returned to the meeting room.

The Commission took a short break at 9:26 P.M.

The Commission returned from recess at 9:28 P.M.

F. COMMUNICATIONS

1. Adaptive Use Properties – presentation by Commissioner Gould

Ms. Gould provided some brief background/history on adaptive use properties/regulations in Town. She explained that adaptive use regulations were adopted in 1970 as a result of a number of factors/catalysts that were occurring in Town at that time. She cited the large number of new office buildings that were constructed by 1969-1970 resulting in numerous tear-downs of 18th-19th century houses. She also explained the great upset in the community regarding the potential tear-down of the Fitch House which prompted an agreement, with the assistance of Attorney Tom Adams (who wrote the first set of adaptive use regulations), whereby the Fitch House would be salvaged if the Historical Society took it over as a museum.

Ms. Gould explained that the community was very concerned at the time about maintaining the historic character of Route 7 since it did not want the corridor to become another Route 1 in Westport. It wanted to maintain Wilton's residential zoning yet still give property owners the ability to develop some commercial uses within strict guidelines as subsequently set forth in adaptive use regulations. She noted that some modifications to those regulations were adopted in 1980, and then when the State was buying up properties for the Route 7 highway later in the 1980s, older Wilton structures were permitted to be brought in and placed on a person's property.

Ms. Gould stated that Wilton has two of the largest historic districts in the state of

Connecticut, noting that everyone at the time felt it was an admirable and meaningful goal to preserve the historic character of the Town. She passed around some booklets on Wilton's history.

Ms. Gould referenced currently proposed regulation changes to Section 29-5.C.5, copies of which were previously provided to Commissioners, noting in particular a proposal to allow up to 50% new construction with limitations on scale, bulk, materials, etc. so as to appropriately maintain the historic character of the area. She noted a proposed change to surfacing materials, where previously only gravel was allowed on such properties, to address snow plowing issues, wheel chair mobility, heels, etc.

Ms. Gould suggested that Commissioners read the proposed regulations with a view towards discussing it in detail at the next meeting. She noted in particular a proposal to now include Cannon Road just down to Pimpewaug Road, given its wealth of history and architecture.

In response to a question from Mr. Nabulsi, Ms. Gould clarified that the Commission's objective is to prevent tear-downs and to work with what is currently on the property as opposed to allowing tear-downs and greater flexibility as to what is built on the site. She cited a distinction between historic preservation and historic renovation.

Mr. Nerney noted further that some latitude with setback encroachments was built in to the current proposal, but site coverages were kept the same since most of the properties in question are probably below the coverage percentages allowed. Ms. Gould stated that she would have no objection to increasing site coverage in order to allow for parking on a site.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

1. SDP, National Sign Corp./Tracy Becker, 190 Danbury Road, Alternative Signage program [Discussion July 8, 2013]

J. ADJOURNMENT

MOTION was made by Mr. Rudolph, seconded by Mr. Gardiner, and carried unanimously (6-0) to adjourn at 9:59 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary