

PLANNING & ZONING
COMMISSION
Telephone (203) 563-0185
Fax (203) 563-0284



TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

**WILTON PLANNING & ZONING COMMISSION
PUBLIC HEARING/REGULAR MEETING
MINUTES – JANUARY 12, 2009**

PRESENT: Chairwoman Sally Poundstone, Secretary Bas Nabulsi, Commissioners Alice Ayers, Doug Bayer, Marilyn Gould, Eric Osterberg, Dona Pratt and Michael Rudolph.

ABSENT: Commissioner John Wilson (excused absence)

ALSO

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

PUBLIC HEARINGS

**1. SP#344, Consumers Petroleum of CT, Inc., 386 Danbury Road,
Addition/modifications of existing convenience store/gas station (continuation)**

Ms. Poundstone called the Public Hearing to order at approximately 7:15 P.M., seated members Ayers, Bayer, Gould, Osterberg, Poundstone, Pratt and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Present for the applicant was John Knuff, attorney, Bill Carbone of Spath-Bjorklund & Associates, engineer, and Roger Snelling, applicant.

Mr. Knuff noted that one of the issues brought up at the last meeting was an aquifer assessment, and while the applicant had originally requested a waiver of that requirement, they have now engaged Leggette, Brashears and Graham to provide an aquifer assessment. As the report will not be available for approximately two weeks, however, he is submitting a letter requesting an extension, and is also submitting a spill protection plan into the record.

Mr. Knuff said they met with staff regarding the issues raised at the last meeting, and have revised the plans in accordance with their suggestions. The applicant will be utilizing LED lights for the canopy, which use significantly less energy than traditional incandescent lights and allow for better focusing. A photometric plan will be submitted.

P&Z Minutes – 1/12/09 – Page 2

Ms. Poundstone noted that the applicant has made significant progress in the last two weeks.

Commissioner Nabulsi arrived and was seated.

Mr. Carbone distributed revised plans, which he said pertain to the leased portion shown in the shaded area. He reviewed the changes as follows:

- A floodway fringe has been added, which shows the extent of the 100 year flood plain.
- The stockpile has been reconfigured to keep it all outside the 100 year flood plain and off the paved area. It will be completely surrounded by a silt fence, backed up with hay bales.
- The dumpster enclosure has been doubled in size to hold two dumpsters within a 6' high fence, which will serve both the convenience store and the auto body shop.
- Bollards have been added at the end of each pylon at the gas pumps, which are U-shaped to prevent accidents into the dispensers themselves.
- The curb has been moved approximately a foot easterly to enclose the post that holds the sign.
- An alternative landscaping plan has been proposed which specifies a specific type of arborvitae that is lower growing and won't compete with the crabapples.
- Minimum height of the handicap sign has been added.
- The wheels sign on the front of the building has been added.
- A parking plan, which is a feasibility study, has been prepared to show that 28 spaces are feasible. Eleven spaces are proposed for the convenience store and gas station.

Mr. Bayer observed that the area shown in the parking plan is not currently paved and is within the flood zone, so it would appear that it is not truly feasible. Mr. Carbone explained that the plan is in response to the question of whether the property can accommodate the required number of spaces under the current regulations. He said the last approved plan was in 1977 and was for a total of 26 spaces. There are a variety of non conformities with the site, one of which is the amount of parking, and any increase in the number of spaces will make the site less non-conforming.

Ms. Gould noted that there are 10 to 15 very large trucks parked within the flood plain area, which are obviously part of the refuse business of the rear tenant.

Mr. Rudolph asked if there are any plans for the removal of the various dumpsters, concrete blocks, storage trailers and sheds on the site. Mr. Carbone said the survey showed what was on the site on October 3, 2008. Many of the dumpsters have since been removed. Mr. Knuff said they have had several conversations with the landlord and requested that all of the items that are not supposed to be located on the site be removed. Mr. Nerney suggested that they come to an agreement with the owner as to what will be removed and that it be memorialized in a document in the event of an enforcement action in the future.

Mr. Nabulsi said he understands the parking plan is a concept plan to demonstrate capability, but thinks if it is going to be part of the application, it should be in full compliance with the regulations, and he does not think that the applicant has demonstrated that there is room for 28 spaces under the regulations.

Mr. Knuff said there may be requirements in terms of landscape islands that the plan does not show, but the goal was to demonstrate that the spaces can be depicted on the site. They are not making the claim that the site will be fully conforming at the end of the day, but that they are making it less non-conforming.

Ms. Gould pointed out that two-thirds of the site is non-conforming and apparently will not be conforming unless the owner of the site wishes to make it so, and there is no indication that the owner wishes to do that. The one-third of the site that the applicant wishes to improve is closer to the roadway and can be seen by everybody who passes by, so, from a visual impact, there are benefits and merits to the proposal. She noted that Pat Sullivan's memo, which she thinks the Commission has to come to grips with in terms of how the proposal is going to work, indicates that the applicant must take care of the problems, and she does not think the applicant can take care of the problems.

Mr. Carbone said there are two issues related to that portion of the site that they don't control; there are violations and there are non-conformities, which are two very different things. The applicant has had a number of conversations with the landlord, and they are trying to clear up the violations, and he thinks Mr. Nerney's idea of showing those items that are to be removed is a good one. As to non-conformities, they have done what they can on the site in terms of reducing the non-conformities.

Mr. Bayer said he doesn't think the Commission has the ability to look at the property just in terms of the applicant's leased portion. The application should include the entire property and should show in which place the entire property is non-conforming, and how those non-conformities are to be reduced. He said while he is sympathetic because the applicant is improving the property, he does not think the Commission has the authority to separate out a portion of the property in reviewing the application.

Mr. Knuff said they are doing what they can in terms of curing the violations, and have identified those areas in which they are reducing non-conformities. He said if the Commission wishes, they will list all the existing non-conformities and show which of those non-conformities will be reduced or eliminated, and which will retain their legal non-conforming status, but they are unable to clear up every non-conforming issue with the entire property.

Mr. Rudolph and Ms. Poundstone both agreed that the applicant needs to prepare a set of

plans with everything shown.

Mr. Bayer said while the owner has authorized the applicant to make this application, it is really the owner's application as the owner owns the property and has control over it, and he thinks the owner should be present.

Mr. Nabulsi said, as he understood the discussion at the last meeting, if someone is pointed in the wrong direction at the side pumps, the driver can pull into the non-leased area, turn around and come back out, and asked if an easement was needed to allow them to do that and ensure that conditions are going to be safe for people using the pumps. Mr. Knuff said if an easement would satisfy the Commission, he will draft an easement that would cover the ability of customers and invitees of Consumer's Petroleum to come and do a three point turn and exit the site.

Mr. Nabulsi read for the record a one-page email from Pat Sullivan dated January 6, 2009.

There being no further comments from the Commission or the public, at 7:55 P.M. the Public Hearing was continued until January 26, 2009.

REGULAR MEETING

A. CALL TO ORDER SEATING OF MEMBERS

Ms. Poundstone called the Regular Meeting to order at approximately 7:55 P.M., and seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES – December 8, 2008 – Regular Meeting

MOTION was made by Mr. Rudolph, seconded by Ms. Ayers, and carried (7-0-1, with Mr. Osterberg abstaining) to approve the minutes of December 8, 2008 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. SDP, Wilton Library Association, 137 Old Ridgefield Road, Replacement of ground sign
2. SP#345, Anspach, 526 Danbury Road, Special Permit for adaptive use

P&Z Minutes – 1/12/09 – Page 5

3. SDP, Ramadani, 12 Center Street, Various site improvements and corrective action

4. SDP, 3 Hollyhock Properties, 3 Hollyhock Road, Construction of 3000 square-foot commercial building

Ms. Poundstone said she believes the Wilton Library Association signage issue should go to the Village District Committee, and is referring the application to them to review and report back.

Ms. Poundstone said she would suggest that they schedule SP#345 for the evening of January 26th along with the continuation on the gas station, and that they hear 12 Center Street and 3 Hollyhock Road on February 9th.

MOTION was made by Mr. Nabulsi, seconded by Ms. Ayers and carried (8-0) to adopt the schedule as proposed for the new applications.

E. PENDING APPLICATIONS

1. SP#344. Consumers Petroleum of CT, Inc., 386 Danbury Road,
Addition/modifications to existing convenience store/gas station

(Continued to January 26, 2009)

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

Ms. Poundstone noted that she received a copy of Connecticut Wildlife in her role as Commission Chair and thought it was a fascinating issue and would be happy to share it with anyone interested.

H. REPORT FROM PLANNER

Mr. Nerney noted that there has been discussion about the possibility of some regulation changes. Ms. Poundstone said it will be a task that will go on for a considerable length of time, and she expects to appoint a subcommittee at their meeting on January 26th. She asked the Commissioners to let her know if they have an interest in working on the regulations.

Mr. Nerney said the Regulations Subcommittee will need to go through the information Planimetrics has provided and determine and prioritize what they should be considering and the changes they feel are necessary. He said typically there is no formal vote taken; it is a pre-step to a formal hearing.

Ms. Poundstone noted that Mr. Nerney has been in contact with one of the leaders of the Dark Sky Movement, which is of concern to everyone, and this may be an opportunity to do something very useful and helpful for the environment.

Mr. Nerney said illustrations have been done by Dark Sky advocating efforts with respect to the types of light fixtures and what is acceptable and what is not acceptable, and they have given permission to use those renderings.

Ms. Gould suggested that the adaptive use regulations need prompt attention and revision.

Ms. Pratt asked what has happened with Avalon since they last met with them. Mr. Nerney said Avalon requested a meeting with the administrative permitting departments, and then canceled it. No reason was given.

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Gould, seconded by Ms. Ayers and carried (8-0) to adjourn at 7:59 P.M.

Respectfully submitted,

Karen Pacchiana
Recording Secretary