

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

**WILTON PLANNING & ZONING COMMISSION
PUBLIC HEARING/REGULAR MEETING
MINUTES – SEPTEMBER 14, 2009**

PRESENT: Chairwoman Sally Poundstone, Commissioners Alice Ayers, Marilyn Gould, Bas Nabulsi, Michael Rudolph and John Wilson.

ABSENT: Doug Bayer, Eric Osterberg, and Dona Pratt (notified intended 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

None.

REGULAR MEETING

**A. CALL TO ORDER
SEATING OF MEMBERS**

Ms. Poundstone called the Regular Meeting to order at approximately 7:15 P.M. and seated members Ayers, Nabulsi, Poundstone, Rudolph and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. July 27, 2009 – Regular Meeting

MOTION was made by Mr. Rudolph, seconded by Ms. Ayers, and carried (4-0-1, with Mr. Wilson abstaining) to approve the minutes of the July 27, 2009 Regular Meeting as drafted.

Ms. Poundstone suggested revising the agenda to move item F-2 to the next item on the agenda out of respect to the First Selectman. The Commissioners concurred.

F. COMMUNICATIONS

2. MR#126, 8-24 Mandatory Referral, Establishment of a public memorial and flagpole at the northerly approach to Wilton Center, in front of the Piersall Building

First Selectman Brennan said two years ago a plan was conceived to put a flagpole on the triangular property at Center Street and Old Ridgefield Road. There is already a memorial to World War I veterans there, and it is a gateway to the Town and a prominent place to put a flagpole to honor Wilton's war dead. Kevin Quinlan, a Wilton architect, was asked to come up with a conceptual idea. Bob Nerney, Town Planner, was consulted as to what needed to be done to get the project approved.

Whereupon Commissioner Gould arrived and was seated.

A committee was formed that worked in conjunction with the American Legion. Mr. Brennan said it will be a public/private project as the funds needed for it will be raised. Then the big financial meltdown occurred and the project was put on hold.

Mr. Brennan said the project has now been revived and a committee of veterans has been formed, which has been working with the American Legion. An idea was conceived that the monument honor all of Wilton's war veterans from all the wars, from the French and Indian and American Revolutionary Wars, the Civil War, and right up to include Iraq. The plan is to consolidate all the plaques from all the wars on one monument, and the committee is in the process of designing that. Some of the plaques list those who served and those who were killed. The goal is to remember all of the Wilton citizens who made the supreme sacrifice. They have done research in other towns and found that most of the memorials list those who died, not those who served. They will be contacting the Village District Committee for their input. Once a final design has been determined, it will be presented to P&Z for approval. The goal is to have the flagpole built and the masonry work done in time for the Memorial Day parade. Mr. Nerney noted that the actual referral will be to the Planning and Zoning Commission, which will refer it to the Village District Committee.

Ms. Ayers said she is glad the French and Indian War and Revolutionary War dead are included. The east coast has veterans that nobody else has and the Town ought to be very proud of them as they are very important to its history. Ms. Gould said she too is very interested in the monument to the veterans going back to the French and Indian War.

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Mr. Brennan said they thought it would take a long time to research the war veterans, but with the help of Mr. Russell's book on the history of Wilton, they had the whole list within a few weeks.

Mr. Nerney suggested that the memorial be set far enough back from the road in the event the Town ever decided to reconfigure the right-of-way.

In response to a question from Mr. Nabulsi, Mr. Brennan said he doesn't think the memorial would get a lot of road traffic. Most visitors would be foot traffic and most would be during the Memorial Day parade, when they will stop and put a wreath there.

Mr. Rudolph suggested that not only the name but the date of death and particular war involved be listed on the plaque. He would also suggest that there be room for expansion. Mr. Brennan said they have included that as part of the design, although hopefully they won't have to add anyone.

C. SITE DEVELOPMENT PLAN REVIEW

(None)

D. ACCEPTANCE OF NEW APPLICATIONS

- 1. CHZ#09317, Trygve Hansen and Muriel T. Hansen, 19 Cannon Road, Zone change from R-2A to DRB and the Cannon Crossing Overlay District**
- 2. SUB#901, Polito, 248 Sturges Ridge Road, 2-lot Subdivision**

Ms. Poundstone suggested both applications be scheduled for September 28th. It was pointed out that the 28th is a religious holiday, and the applications were scheduled for October 12, 2009.

MOTION was made by Mr. Nabulsi, seconded by Mr. Wilson, and carried (6-0) to schedule the Public Hearings for both applications on October 12, 2009.

E. PENDING APPLICATIONS

1. SP#347, Mincey, 500 Ridgefield Road, Addition/renovations to historically significant residence per Section 29-5.C.8 of zoning regulations

Commissioner Ayers recused herself.

Mr. Wilson said he had not heard the tapes of the last meeting, but he had read the minutes and heard the bulk of the discussions from the other meetings. It was agreed among the other Commissioners that Mr. Wilson should be allowed to participate in the discussion.

Mr. Nerney explained that a Special Permit requires that the applicant fulfill the site development plan approved by the Commission in order to get a Certificate of Occupancy and, by statute, they have up to 5 years to do that. There is an expectation by the Commission that the plan as proposed will be fully completed, and if it is not, the applicant would have to come back to the Commission to amend the approval. There can be, with Commission approval, up to an additional five years allowed to complete the project, so the renovations could ultimately take 10 years to complete.

Ms. Gould noted that the two phases are stand-alone projects. The second project enhances the living space and doesn't affect site coverage, so she doesn't think the Commission needs to be overly concerned about when the applicant is able to afford to give themselves another bedroom or two. She said clearly the applicant has presented the two phases in order to relieve themselves of the responsibility and the cost of two applications. Ms. Poundstone pointed out that according to the June 9, 2009 Special Permit application, the applicant is requesting three variances for Phase B.

Mr. Nabulsi said the regulation that the application was brought under limits the applicant to only one shot. They cannot come back in and use the regulation a second time, and he is concerned that if the Commission allows an applicant to present a Phase I and a Phase II, it is creating a loophole in its own regulation. Another applicant can now come in and present any number of steps, but then stop along the way, and he is not comfortable with the regulation being potentially used in that manner.

Mr. Nerney pointed out that the two expansion areas are remote from each other and, typically, they would get a permit for one and then a permit for the other, but it is under the umbrella of one approval. He said there could be a number of phases presented in one application, but during the public hearing process and the vetting of the application the Commission has the ability to determine whether the application complies with the 2-acre development standards for the parcel, and whether it meets the general spirit of the regulations. If this were a multi-phased project that clearly exceeded and detracted from the historic character of the property, then the Commission would simply move to deny it.

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Mr. Wilson said his concern is the ability of the applicant to obtain the Certificate of Occupancy (C of O) and to inhabit the residence. Ms. Gould said the C of O is related to the building permit. The building permit is related to the scope of the project, so when they complete the first section, they will get a building permit for that, and that is what the building official will grant the C of O on. The Commission is interested in the whole project, but the Building Department is not, and it is the Building Department that regulates the C of O.

Mr. Wilson pointed out that if Phase I is completed and Phase II is never started, then the approval will expire on September 17, 2014 and will not be available for future renovation. He said he has no problem with paragraph two of the Resolution because the Commission will have granted the applicant the maximum they have asked for, and as long as they don't exceed what the Commission has allowed them, it is okay if they have done less because they cannot come back again under the regulation.

Mr. Nerney said typically when the Commission looks at these applications, they look at them based upon the public good, and he thinks maybe they should be focusing on what the public detriment would be if the project is phased. He said he doesn't find it egregious if only one phase is completed, but he doesn't like the idea of interpreting the regulation to allow applicants to put a couple of designs in their back pocket and exercise them if they choose to.

Mr. Rudolph said they are being asked to grant an application based upon 100% completion of what was presented to them, and they either deny the application or agree that 75% or some portion of completion is okay, and he feels that is a bad precedent.

Ms. Poundstone said she is not concerned about the phasing, but about the completion of both phases within the 5-year period and what happens 5 years from now if it is not all done.

Mr. Nabulsi said what troubles him is that the applicant is operating under a regulation that only allows one approval, but they have basically asked for approval of two different renovations. He doesn't know what the Commission's remedies are if only Phase I is completed, but the approval should be clear that it is predicated on both Phase I and Phase II being completed.

Mr. Wilson said it is a fairly new regulation and a fairly new application and the Commission is learning as it goes. He feels the issues that have been raised are things that should have been vetted during the application process rather than at this point, and if the Commissioners had any inclination of voting against the application because of the potential for non-completion, it should have been made very apparent to the applicant, and he is not sure that it was.

MOTION was made by Mr. Nabulsi, seconded by Mr. Wilson, and carried (3-2) to approve Resolution #0909-10P. In accordance with Section 8-3i of the CGS all work or physical improvements required in, or authorized by, the Special Permit Site Plan shall be completed within five years of the effective date of this Resolution. This five year

period shall expire on September 17, 2014. All work and physical improvements as set forth in both Phases A and B shall be completed within the prescribed timeframe.

3. SP#288E, Ambler Farm, Town of Wilton, 257 Hurlbutt St, Restoration/Addition/Change to Public & Semi-Public Use of Raymond-Ambler House

Commissioners Wilson and Gould recused themselves.

Mr. Nerney said the septic system was the one outstanding issue at the close of the Public Hearing, and in the meantime the Health Department has been out to the property. In addition, Friends of Ambler Farm hired a septic installer, who has been working with the Town Health Department and has dug test pits and reviewed the location. The area has the carrying capacity based upon the worst-case scenario as presented by Rich Vail, the architect, at the Public Hearing on July 27th, so a system can be developed (it would be a large system), and there seems to be sufficient room to accommodate it.

Mr. Nerney said a letter was received from Jennifer Zbell, which stated that the Wilton Health Department has approved the septic system design feasibility only. Additional test soils and a detailed plan will be required prior to the final approval.

MOTION was made by Ms. Ayers, seconded by Mr. Nabulsi, and carried (4-0) to approve Resolution #0909-11P as proposed.

F. COMMUNICATIONS

1. SUB#882, Gaboriault, Middlebrook Lane, Request to extend time for completing improvements, pursuant to CT General Statutes Section 8-2c

Mr. Nerney said only three lots of this 4-lot subdivision have been developed and sold. The road is in, the infrastructure is in, and the drainage is in. What hasn't been completed is the final paving coat and the developer is asking for additional time. It is the developer's desire to hold off doing the final paving until construction is completed and all equipment is out of there. The Commission can grant up to five additional years to complete the improvements.

Mr. Nerney said a law was just passed giving automatic extensions on approvals that were made between 2006 and today to try to help developers, but the subject application was approved prior to that, so it doesn't enjoy the benefit of the new law. In response to a question by Mr. Nabulsi, Mr. Nerney said they have approved such extensions in the past. He said they are holding an Evergreen Letter of Credit, which is perpetual, and that is the main thing to be concerned about. He doesn't think anything has been released on the Letter of Credit.

MOTION was made by Mr. Nabulsi, seconded by Ms. Ayers, and carried (4-0) to grant a three-year extension from the date of expiration pursuant to the authority the Commission has.

G. REPORT FROM CHAIRMAN AND COMMISSION MEMBERS

Ms. Poundstone noted that the issue of allowing package liquor retail stores in Wilton is going to be on the local ballot in November, and if it passes they will need to take a look at some of their regulations. She plans to put the issue on the agenda for the first meeting after the election. Some of the rules are State rules, such as there can only be one liquor store per 3,000 residents, and they can only operate between 9:00 A.M. and 9:00 P.M.

Mr. Nabulsi said if the November referendum comes out in favor of allowing package stores in Town, in theory the very next day an application or ten applications could be filed with P&Z, and he thinks the Commission should review the regulations before the referendum is passed. They are going to have a number of applications fairly promptly if it passes, and he doesn't think they should be making changes in the regulations after the applications are in.

Ms. Poundstone said there has been some feeling that if they begin to study the issue of regulations before the election, that it will become politicized, whereas after the election, the electorate will have spoken. Ms. Ayers said that is a fair comment, but on the other hand they have a responsibility to their job as zoning regulators.

Mr. Rudolph suggested moving the discussion up so that they can then schedule a meeting of the subcommittee prior to the election.

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Ayers, seconded by Mr. Rudolph, and carried (4-0) to adjourn at 8:37 P.M.

Respectfully submitted,

Karen Pacchiana
Recording Secretary