

From: Lois Laczko October 8, 2010 12:46:16 PM  
Subject: Zoning Commission Minutes 09/20/2010 ADOPTED  
To: SimsburyCT\_ZoningMin  
Cc:

ADOPTED

ZONING COMMISSION MINUTES  
September 20, 2010  
REGULAR MEETING

I. CALL TO ORDER

Chairman Gallagher called the Regular Meeting of the Zoning Commission to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Bruce Elliott, Dave Ryan, Edward Pabich, and Robert Pomeroy. Amy Salls arrived at 7:03. Also in attendance were Director of Planning Hiram Peck, Commission Clerk Alison Sturgeon and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Gallagher appointed Mr. Ryan to serve in the absence of Mr. Vaughn.

III. APPROVAL OF MINUTES of September 13, 2010

Mr. Elliott made a motion to approve the September 13, 2010 minutes as written. Mr. Pomeroy seconded the motion, which was unanimously approved.

Mr. Pabich read the call.

IV. PUBLIC HEARING(s)

a. Application of Wolf Restaurant, LLC, Owner, for a Zone Change from zone R-40 to zone B-1 on a portion of property located at 332 Hopmeadow Street. R-40 Zone

Attorney Silver stated that the applicant is seeking a zone change because he would like to utilize a portion of land at 332 Hopmeadow Street to establish additional parking for Abigail's Restaurant. The restaurant has been open for approximately 2 years. The restaurant is doing well; however, they need additional parking. The applicant would like to

purchase approximately 1 acre of land, using only half of that purchase for additional parking. They are looking to add an additional 50 parking spaces. Attorney Silver stated that the applicant is aware that a more detailed Site Plan will need to be submitted.

Attorney Silver stated that this zone change will not be a detriment to the Town. Many of the trees will be left; it will not become an eye sore.

Mr. Pabich stated that the survey does not delineate the daycare center. Attorney Silver stated that that area is not being changed at all.

Mr. Pabich questioned if the applicant has had any communications with the owners of the daycare facility regarding safety issues. Attorney Silver stated that no communication has taken place as of yet, although the additional parking will not be a detriment to the daycare facility.

Chairman Gallagher questioned if the easement from the sewer line would be a problem. Attorney Silver stated that they are not anticipating any issues.

Mr. Elliott stated that the restaurant does not have enough parking so the applicant would like to purchase this property. He questioned what the need was for the extra parking. Attorney Silver stated that the restaurant has been thriving. Because of limited parking, the applicant has had to subcontract a valet service for parking. Mr. Wolf stated that the valets double park the cars. He stated that having additional parking would be safer and would be a great help to the restaurant. Attorney Silver stated that the additional parking would be used mostly at night and on weekends when the daycare facility is closed. Mr. Wolf stated that there are currently 70-80 parking spaces for Abigail's. The building is 10,000 square feet.

Mr. Elliott stated that the Zoning Regulations call for 3.3 parking spaces per 500 gross square feet of building. According to the regulations, Abigail's would need approximately 70 parking spaces. Mr. Wolf stated that the major complaint from customers during the past year has been insufficient parking. Additional parking would be a great help.

Mr. Elliott questioned why the applicant would only be using half of the one acre. Mr. Wolf stated that the other portion of the property is unusable because of the setbacks and because a portion of the property is in the floodplain.

Mr. Wolf discussed his other restaurants in South Windsor and West Springfield with the Commission members. He stated that his other two restaurants have also required extra parking.

Ms. Salls questioned how many people the restaurant can service at one time. Mr. Wolf stated that the restaurant can service 220 people at once. He stated that during happy hour, many patrons drive to the restaurant alone, which uses additional parking spaces as well.

Mr. Pomeroy questioned if the additional parking area would be paved. Attorney Silver stated that the parking lot is required to be paved per the Town regulations.

Mr. Pabich suggested when the applicant comes back for the Site Plan approval, that they give the Commission more detail.

Regarding this request for a zone change, Mr. Elliott questioned if there was a mechanism that could ensure that this property would remain parking and not be used for an enlargement of the building or a request for something else.

Mr. Peck stated that the Commission can make that clear in their approval. He stated that the applicant has stated that only a portion of this property could be used for parking because of the floodplain. He stated that no structures could be built on this additional property because of the floodplain as well. Mr. Peck stated that the Planning Commission recommended this zone change although they asked that the applicant consider permeable pavement.

Chairman Gallagher questioned if there were any comments or questions from the public.

Attorney William Case stated that he is here on behalf of the daycare facility at 6 Hartford Road. The daycare facility has 70 years left on the ground lease; they are more than just a tenant. He stated that their concern is about the safety issues, although they are not against this zone change. They are also concerned with the aesthetic and floodplain issues regarding this application. They want to make sure that these issues are dealt with appropriately. Attorney Case stated that the daycare is busy during the restaurant's happy hour, which is a concern; safety is an issue. He stated that he would like to work with the applicant regarding these concerns.

Chairman Gallagher questioned how many parking spaces are allocated just for the daycare. Attorney Case stated that the daycare and Mr. Wolf share the parking, although there are 6 spots that are dedicated for the daycare facility from 6 a.m. to 7 p.m.

Mr. Elliott questioned if the daycare facility has ever had water in the

building. Attorney Case stated that they have never had water problems; the building is on a slab.

Sue Bednarczyk questioned if water has ever closed the daycare facility. The owner of Children's Clubhouse, 6 Hartford Road, stated that water did come into the parking lot and they could not open that day because water blocked the exit doors. Ms. Bednarczyk stated that if a building is built in place of the additional parking, this could cause water issues.

Chairman Gallagher closed the public hearing.

Mr. Pabich amended the agenda to have Item IV., Discussion and Possible Vote on any Agenda Item next on the agenda. Mr. Pomeroy seconded the motion, which was unanimously approved.

Mr. Ryan made a motion to approve the application of Wolf Restaurant, LLC, Owner, for a Zone Change from zone R-40 to zone B-1 on a portion of property located at 332 Hopmeadow Street as submitted. Mr. Pomeroy seconded the motion.

Mr. Elliott suggested inserting language into the motion to ensure this area is limited to parking. Mr. Peck stated that the Commission could request the opportunity to look at this site again should anyone want to do anything different on this property. Mr. Ryan stated his concern regarding this Commission adding zoning restraints that are not in the Zoning Regulations.

Mr. Ryan made an amended motion to approve the application of Wolf Restaurant, LLC, Owner, for a Zone Change from zone R-40 to zone B-1 on a portion of property located at 332 Hopmeadow Street because it is being proposed as parking to accommodate an existing business on the adjacent B-I zoned property. The Commission also expects to see in the near future a Site Plan for the use of the property exclusively for parking purposes. Ms. Salls seconded the amended motion, which was unanimously approved.

#### V. PRESENTATION(s)

a. Application of Thomas R. Evans, Owner, Kratzert, Jones & Associates, Agent, for a Site Plan Approval for a proposed Dunkin Donuts on property located at 138 & 142 Hopmeadow Street. B-1 Zone

Attorney Bob Meyers stated that they have gotten approval from the Wetlands Commission and a favorable recommendation from the Design Review Board.

Mr. Quirk, Engineer, stated that this site is along Route 10. He stated that the site currently contains two buildings. The two parcels total

approximately 1 acre. The proposal is to maintain the existing house, demolish the restaurant and construct a Dunkin Donuts with a drive-thru. Mr. Quirk stated that this proposal meets all of the Zoning regulations. There is 53% impervious coverage currently on the site. They are proposing to reduce this to 48% impervious coverage. The parking has also been reduced from 40 to 24 parking spaces. He stated that the site would be using the same curb cut that is currently there.

Regarding the site drainage, Mr. Quirk stated that the applicant has worked with Town staff to meet the wetlands and zoning regulations. He stated that they are proposing three rain gardens that will collect sheet flow from the parking area; there is an overflow system that will discharge to the wetlands to the east. He stated that currently there is no storm drainage on the property; these proposed activities will be improving the water quality on the site.

Regarding landscaping, Mr. Quirk stated that the mature trees will remain along the east and north sides of the site. They will use a native species of plantings throughout the site. The dumpster is screen to the rear of the property; it will not be visible from Route 10. The menu board will also be screen from Route 10.

Mr. Quirk stated that the monument sign being proposed was recommended by the Design Review Board, which is shown on the plan. Also, they are proposing a building sign on the south side of the building.

Mr. Ryan questioned if there was a provision to accommodate additional traffic. Mr. Quirk stated that the DOT, as part of the encroachment permit, reviews access and turning movements into the site. There is presently, approximately eighteen feet from the southbound side from the center line to the edge of the pavement; there is enough room for two cars to pass.

Mr. Elliott questioned if the applicant has received any input from the Fire Marshal. Mr. Quirk stated that no comments came back from the Fire Marshal.

Mr. Pabich questioned what is present use of the house on the property was. Mr. Quirk stated that this structure was used for additional storage for the Wasabi restaurant. He stated that they are proposing to convert this to retail. He stated that 22 spaces are required by the Zoning Regulations for this site, 8 of which are for retail and 13 for the restaurant. He stated that they will be providing 24 parking spaces for this site.

Chairman Gallagher questioned why a sidewalk out to the street was shown on the plans. Mr. Quirk stated that this sidewalk could accommodate

pedestrians from rails to trails.

Mr. Pomeroy stated that there has been an apartment complex approved for Mr. Ritson's property. He questioned if there would be a foot path connecting that property to the Dunkin Donuts. Mr. Quirk stated that the proposed apartment complex is 300-400 feet to the east and is separated by wetlands; this is not walkable.

Mr. Elliott questioned what building materials would be used. Mr. Quirk stated that they are proposing to use stone veneer with a water shelf with hardy plank above that. The Design Review Board has reviewed these materials and has given a favorable recommendation. Mr. Fanning stated that this is a non-standard Dunkin Donuts building. They tried to work to create something that would blend in more with this area.

Mr. Elliott questioned when the applicant would start construction. Mr. Fanning stated that they would like to start construction as soon as they get approval from DOT.

Attorney Meyers stated that the applicant has added screening for the Dunkin Donuts building and headlights from the existing condominium complex, Talcott Acres.

Chairman Gallagher asked for comments and questions from the public.

Mrs. Carbone, Talcott Acres, stated her concern regarding turning left out of her complex; it is currently very hard to turn left. She would like the applicant to take this into consideration. Also, the lighting concerns her. She questions what the hours of operation would be. Mr. Fanning stated that the Dunkin Donuts is usually open from 5 a.m. to 10 p.m.; however they can apply for exceptions from the company.

Mrs. Bishop, Talcott Acres, stated that she agrees with Ms. Carbone regarding the traffic issues; the morning traffic is already bad. She feels that when the Dunkin Donuts is busy, the traffic will become worse. Mr. Peck stated that the neighbors are welcome to submit any comments in writing; these can be included with the Town's letter to the DOT.

Sue Bednarczyk questioned if all sides of this site are buffered. Mr. Quirk stated that on the north side of the site there are large maple trees, which are to remain. On the east side of the site, there is currently wetland vegetation and they are proposing to add plantings for year round buffering. Also, on the south side, there are maples currently there that will be remaining.

Chairman Gallagher stated that a favorable recommendation from the Design

Review Board and Inland Wetlands Commissions were received by this Commission.

VI. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Mr. Pabich made a motion to approve the application of Thomas R. Evans, Owner, Kratzert, Jones & Associates, Agent, for a Site Plan Approval for a proposed Dunkin Donuts on property located at 138 & 142 Hopmeadow Street as submitted. Mr. Elliott seconded the motion, which was unanimously approved.

VII. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

a. Other Business

Status of Town Center Code Discussion/Mapping Discussion

Mr. Peck stated that a draft of the Town Center Code is on the Town's website. The Town Attorney will be submitting comments so the final revisions to the Code can be made. Mr. Peck stated that they need to make sure the map is clear and that the Code conforms to Connecticut Law.

Mr. Peck stated that the Regulation will go to the Boards and Commissions for comment once the revisions are made. More revisions will be made if necessary and then a public hearing will be scheduled.

IHZ discussion and possible action

Mr. Peck distributed a handout regarding the original eight sites that were to be included in the Incentive Housing Zone study. Mr. Peck discussed the details for several of these sites. He stated that since the Town Center Code has evolved, his sense is that there is not a lot of interest in pursuing the IHZ for the Town Center sites. The Town Center sites may be better served by using the Town Center Code. He recommended that the Zoning Commission not continue further consideration of the sites in the center of Town under the Incentive Housing Zone Regulation.

Mr. Peck stated that if this Commission decides to land the IHZ on any of these properties, it would be specific as to the type of housing that would be appropriate and permitted.

Mr. Peck stated that the Tariffville site; the Plank Hill site; and the Northeast Utilities site are the remaining three sites under consideration for the IHZ. He stated that the Design Review Board came up with design standards for each of these zones; these need to be integrated into the regulation.

If this Commission accepts these sites that are shown, Mr. Peck stated that he will move forward and send the regulation on to OPM. He stated that the State does have money for these approvals, up to \$5,000 for a single family dwelling.

Discussion and possible recommendation to Board of Selectmen regarding establishment of Special Revenue Fund for creation of Town Center Design Standards/Guidelines

Mr. Peck stated that this Commission was asked to consider and make a recommendation regarding the Board of Selectmen establishing a Special Revenue Fund for the creation of Town Center design standards or guidelines. He stated that the Design Review Board and the Planning Commission believe this is a good idea and have made favorable recommendations. Mr. Peck stated that it is uncertain if standards or guidelines should be utilized. He stated that the Town's current design guidelines could be improved in order to help applicants.

Mr. Pabich questioned if there was a target budget for this project. Mr. Peck stated that there is a budget; the Town was led to believe that the cost would be \$40,000. If the establishment of the Special Revenue Fund moves forward, he will submit a grant by April 1st for half of the money.

Mr. Elliott stated that he feels standards would be better because developers would know what is expected of them and they would have options to pick from.

Mr. Pomeroy questioned if standards and guidelines cost the same. Mr. Peck stated that the cost for both would be the same.

Mr. Pabich questioned if this Commission did not take any action tonight and revisited this issue after seeing what the form based code is, would there be any impact to this delay. Mr. Peck stated that it would be a delay and no grants could be applied for.

Mr. Ryan stated his concern regarding standards, which he feels moves toward a planned community like Celebration, Florida; these are cookie cutter communities. He is not sure with the variety of architecture in Town that they should go down the path of establishing design standards. He feels that although guidelines are more flexible, the more guidelines there are the more things get channeled into standards.

Mr. Elliott made a motion that the Zoning Commission request that the Board of Selectmen establish the appropriate Special Revenue Fund account to accommodate funds for the purposes of developing either guidelines or standards, a decision which will be made in the future. Mr. Pomeroy



seconded the motion.

Mr. Ryan stated that he feels this motion is premature. Mr. Pabich stated that because he is not ready to vote on this issue, he will be voting in opposition.

Mr. Elliott, Pomeroy, Salls and Gallagher voted in favor of the motion. Mr. Ryan and Pabich voted in opposition of the motion.

b. Old Business

- Application of the Town of Simsbury for a Text Amendment to the Town of Simsbury's Zoning Regulations, pursuant to Article Ten, Special Regulations, Section H, Regulations Governing Uses Which Sell Alcoholic Beverages for a proposal to amend the wording of the existing zoning regulation. (public hearing closed 1/4/2010)

There was no discussion.

VIII. ADJOURNMENT

Mr. Ryan made a motion to adjourn the meeting at 8:35 p.m. Mr. Elliott seconded the motion, which was unanimously approved.

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Ed Pabich, Secretary