

MINUTES
ZONING COMMISSION – REGULAR MEETING
Wednesday, September 6, 2023, at 7:00 P.M.
Simsbury Town Hall – Main Meeting Room
933 Hopmeadow Street, Simsbury, CT 06070

I. CALL TO ORDER – Chair Ryan called the meeting to order at 7:00 P.M.

Present: Town Planner, George McGregor; Assistant Town Planner, Brittany MacGilpin; Zoning Chair, David Ryan; Zoning Commissioners: Tony Braz, Bruce Elliott, Anne Erickson, and Diane Madigan

Absent: Jackie Battos, Donna Beinstein, David Moore, and Tucker Salls

II. APPROVAL OF MINUTES

July 17, 2023, Regular Meeting

Chair Ryan stated that Line 74 has, “&” which is a typo.

Chair Ryan stated that Line 238 and Line 384 include, “the commission,” and felt that because the members of the Zoning Commission had not all agreed on both topics that it should not be phrased as such.

Commissioner Braz stated that Line 71 and Line 258 have, “plant,” when it should be, “plan.”

Commissioner Braz stated that Line 89, “Dagne Griswold,” should read “Dagny Griswold,” and “member,” should read, “board member.”

Commissioner Braz stated that he would like clarification on the claim made on Line 288 concerning a commission member’s response to a food truck being at an event at Tractor Supply. Staff would replace “commission member” with “town staff member”

Commissioner Elliott stated that for Application 23-18 the speaker did not say that the town’s goal was to reach 30% affordable housing, but rather if Mr. Giorgio could increase the affordable housing units in Dorset Crossing. The section should be removed

III. NEW BUSINESS – Site Plan Applications

Application ZC #23-31 of John and Kirsten Carew, Owner; Penwood Builders, Applicant; for Zoning Commission Site Plan approval to permit a ± 600 sq. ft. attached accessory dwelling unit at 8 Ann-Mar Lane (Assessor’s Map D04 Block 208 Lot 024), zone R-40.

- Mr. McGregor stated that the extension would be to the rear of the existing structure.
- Ms. MacGilpin stated one of the requirements is that the property owner is occupying either the attached dwelling unit or the main dwelling unit, and this application meets that requirement as this unit is for a family member while the property owner occupies the main unit.

MOTION: Commissioner Madigan made a motion, seconded by Commissioner Braz to approve **Application ZC #23-31** of John and Kirsten Carew, Owner; Penwood Builders, Applicant; for Zoning Commission Site Plan approval to permit a \pm 600 sq. ft. attached accessory dwelling unit at 8 Ann-Mar Lane (Assessor's Map D04 Block 208 Lot 024), zone R-40. The Commission finds that the application for the site plan has met the standards set in Section 3.5 and site plan criteria in Section 11 and is set for the following conditions: an administrative zoning permit is required for construction. The motion carried unanimously. (5-0-0).

IV. PUBLIC HEARINGS AND/OR ACTION ON APPLICATIONS

Application ZC #23-24 of Prospect Enterprises, LLC, Owner, Paul Vitaliano of VHB, Applicant, for a Special Exception pursuant to Section 4.4 to allow up to a 50% increase to the maximum coverage allowed in the B-2 zone and Special Exceptions pursuant Section 4.5 to permit a \pm 2,400 sq. ft. restaurant, a \pm 2,325 sq. ft. restaurant as part of a site plan along with a \pm 11,600 sq. ft. retail building and a drive-up ATM at 1263 Hopmeadow St. formerly Wagner Ford (Assessor's Map I05 Block 403 Lot 018), zone B-2 (**Hearing continued from 6/21 & 7/17**).

- Mr. McGregor stated that the applicant provided a resubmitted site plan that satisfied and resolved all the engineering comments that were discussed, besides the issue of access from Hopmeadow Street. The town staff including the Town Engineer and Police Chief, recommend a right-in, right-out condition only from Hopmeadow Street.
- Commissioner Elliott inquired to Gregg Nanni, the General Manager of Prospect Enterprises about the site issue involving DEEP, to which Mr. Nanni responded that at the last meeting the question was, "how many ground water monitoring wells are on the site?" There are thirteen. All but one is beneath the standards for remediation. The one well is the closest to Hopmeadow Street and has detectable levels that are more than what the DEEP recommends. There is continuous monitoring of the water levels and there are significant improvements since the treatments began. They are using natural attenuation to see what progress can be made. The other twelve wells' locations have been marked.
- Mr. Nanni stated that there is potentially a continued point source of contamination on the site, caused by a gasoline tank that has since been removed. The effected soil is under the existing car dealership building. With the new proposal they would be able to demolish that building and then remove the contaminated soil.

- Paul Vitaliano, of VHB stated that they are proposing full in, meaning right-in and left-in, with only right-out. Staff agrees with the exit but as already mentioned, opposes being able to enter with a left turn because of queue storage length being compromised, causing vehicle collisions.
- Charlie Baker, Senior Traffic Engineer at VHB presented that from the observations during peak afternoon, only one or two cars are queued, compared to the normally free flow into the left turning lane for Big Y. The queue storage length is not an issue, and they believe that it was overdesigned when the Big Y was built. Traffic would be increased if a left turn into their driveway was opposed because then more cars would have to pull up to the Big Y intersection.
- Mr. Baker stated that they have gathered data from UCONN's Crash Database. For the entire segment on Hopmeadow Street from the Big Y driveway to Ely Lane, with twelve full access driveways, there were only six reported crashes in the last three years. They are looking to consolidate three of those full access driveways into their one driveway and proposing to restrict left turns out of the driveway. There is also the concern of people making illegal left turns into the site. There will be an overall reduction in conflicts if both, right-in and left-in are permitted. The DOT's general policy is to allow left turns unless there is a significant and unique safety concern, which is not present at this site. The DOT was in favor of the driveway configuration.
- Mr. Baker stated that the tenants are also concerned about how limiting the entrance to only right-in would impact their business. He used the example of Starbucks having an only right-in would be disadvantaged when Dunkin allows right-in and left-in.
- Commissioner Braz inquired to Mr. Baker how much the percentage of traffic volume would increase at the Big Y queue storage if left turns were not permitted into the site. Mr. Baker responded they are projecting the highest volume to be roughly seventy-two left turns per hour during the morning peak adding to the current fifteen left turns per hour into the Big Y.
- Commissioner Madigan questioned what responses the Police Department and Fire Department gave when presented with the research findings. Mr. McGregor responded that Town Staff was very focused on reducing conflicts, one being someone wanting to be in the left queue lane to get to Big Y and then being stuck behind someone wanting to go to this site and this swerving back into the through lane and getting back into the left queue lane for Big Y, and this posed a great safety risk.
- Chair Ryan asked about the projected traffic on Hopmeadow Street. Mr. Baker assumed a 0.6% annual growth rate that was based on a recommendation from the DOT's Policy and Planning Unit.
- Commissioner Madigan asked if left turns were not permitted would the tenants back out. Mr. Nanni responded that after the meeting they would go to the prospective tenants and if they are not satisfied, they can.

Public Audience

138 **Lori Boyko of 15 Oakhurst Road, Simsbury** stated that we need to maintain the
139 architecture and livability of Simsbury and that with the increase in apartment tenants
140 in nearby Granby and the current level of congestion caused by Dunkin' these values
141 will be compromised. She brought up the slope in the back of the property creating
142 water runoff. She was also curious about when the traffic studies were done because
143 summer traffic in Simsbury is not indicative of the town's normal traffic flow. She
144 reiterated that this exception must only be granted if there is a very good need to, and
145 that the possibility of people breaking the law and making illegal left turns should not
146 be taken into consideration.

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148 **Sharon Thomas, 42 Brettonwood Drive, Simsbury** expressed concern about the
149 spillage onto the street from this new site, and the population growth in Granby causing
150 more traffic for the services in this part of town.

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152 **Susan Vankleef, 6 Mallard Circle, Simsbury** stated that she agreed with our Town
153 Staff's decision to not allow left turns in. She said that Simsbury is trying to move
154 towards sustainability and drive thrus are not in alignment with that. She doesn't feel
155 that this proposal is the right fit for the location and that with the added issue of traffic
156 it does not make sense.

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158 **David Moore, 18 Bob White Way, Weatogue** stated that the traffic is going to be an
159 issue, particularly with the drive thru. He was also concerned with the hill behind the
160 property creating runoff that will head towards the Farmington River, and if the
161 contaminated soil will be sufficiently remediated.

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163 **MOTION:** Commissioner Elliott made a motion, seconded by Commissioner Braz, to
164 close the public hearing. The motion carried unanimously. (5-0-0).

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 - Mr. McGregor stated that this is a two-part exception. One, is to allow an
167 increase in land coverage from 40% to 59%. The second is that restaurants are
168 not allowed in B sections.

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170 **MOTION:** Commissioner Braz made a motion, seconded by Commissioner Madigan,
171 to approve **Application ZC #23-24** of Prospect Enterprises, LLC, Owner, Paul
172 Vitaliano of VHB, Applicant, for a Special Exception pursuant to Section 4.4 to allow
173 up to a 50% increase to the maximum coverage allowed in the B-2 zone and Special
174 Exceptions pursuant Section 4.5 to permit a \pm 2,400 sq. ft. restaurant, a \pm 2,325 sq. ft.
175 restaurant as part of a site plan along with a \pm 11,600 sq. ft. retail building and a drive
176 -up ATM at 1263 Hopmeadow St. formerly Wagner Ford (Assessor's Map I05 B10-
177 PO7J018), zone B-2 based upon the following findings:

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179 That the specific considerations for special exceptions, as found in Section 12 of the
180 Town of Simsbury Zoning Regulations, have been met, as conditioned, and modified.
181 Those considerations include:
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Orderly Development – The impacts of the redevelopment on the site of the Hopmeadow Corridor is a point of discussion as is the increase of maximum impervious coverage. The Applicant’s revisions to the stormwater management plan mitigates these concerns.

Property Values- It is expected that the redevelopment will have a positive impact on area property values.

Public Safety- The primary safety issue, related to access to the site from Hopmeadow St., can be mitigated by a condition of approval limiting access to a right-in, right-out condition only.

Traffic Considerations- The project, as proposed, is expected to have a negative impact on traffic in the Hopmeadow Corridor adjacent to the site. The Applicant’s Traffic Study show a level of service decrease for certain turning movements. A right-in, right-out only condition on Hopmeadow, recommended by the Police Chief and the Town Engineer, helps to mitigate traffic and access concerns.

Landscaping and Buffers- The Applicant has provided a robust landscaping plan.

And Subject to the Following Conditions and Modifications to the project:

1. The project shall be developed in substantial conformance with the plan set dated May 26, 2023, revised August 23, 2023, prepared by VHB.
2. The project shall be developed in substantial conformance with the architectural set dated June 20, 2023, prepared by BKA Architects.
3. The main site access point at Hopmeadow Street shall be limited to a right-in, right-out condition.

The motion carried unanimously. (5-0-0).

SITE PLAN

MOTION: Commissioner Braz made a motion, seconded by Commissioner Madigan that the Zoning Commission approves **Application ZC #23-24** of Prospect Enterprises, LLC, Owner, Paul Vitaliano of VHB, Applicant, for a Special Exception pursuant to Section 4.4 to allow up to a 50% increase to the maximum coverage allowed in the B-2 zone and Special Exceptions pursuant Section 4.5 to permit a ± 2,400 sq. ft. restaurant, a ± 2,325 sq. ft. restaurant as part of a site plan along with a ± 11,600 sq. ft. retail building and a drive -up ATM at 1263 Hopmeadow St. formerly Wagner Ford (Assessor’s Map I05 Block 403 Lot 018), zone B-2, based upon the following findings:

That the specific considerations for site plans, as found in Section 11 of the Town of Simsbury Zoning Regulations, have been met, as conditioned, and modified.

And Subject to the Following Conditions and Modifications to the project:

1. The project shall be developed in substantial conformance with the plan set dated May 26, 2023, revised August 23, 2023, prepared by VHB.
2. The project shall be developed in substantial conformance with the architectural set dated June 20, 2023, prepared by BKA Architects.
3. The main site access point at Hopmeadow Street shall be limited to a right-in, right-out condition. No left turns from northbound Hopmeadow St., shall be permitted.
4. Prior to the issuance of a building permit for this project, the Applicant shall submit to the Town of Simsbury an Erosion & Sediment Control Bond, in a form acceptable to the Town, in the amount of \$25,000.
5. Prior to the issuance of a building permit for this project, the Applicant shall submit 2 sets of mylars, and one paper set for signature and recordation.
6. Prior to the release of any bonds for this project, the Applicant shall submit an “As-Built” for the project.
7. Prior to the issuance of a certificate of occupancy, the plan shall be revised, and easement documents submitted, to include a public access easement along the Hopmeadow frontage to accommodate the sidewalk, in a form acceptable to the Town.
8. Prior to the issuance of the first certificate of occupancy for the property, the Applicant shall repair and/or replace any damaged public sidewalk along the frontage in a manner acceptable to the Town.

The motion carried unanimously. (5-0-0).

V. GENERAL COMMISSION BUSINESS

Public Notice Options – Update on possible options to expand public notice for public hearings.

- Mr. McGregor stated that the Town recommends having the applicants put up abutters notice signs so that the community is aware of public hearings.
- Commissioner Elliott explained that Simsbury had done this before and it was not efficient. When the Town Staff did it, it became too much of a burden.
- Chair Ryan stated that a sign and abutters notice for people within 100 ft would be sufficient.

Retail Cannabis – Update on the implications of November public referendum

- Mr. McGregor stated that if the referendum passes to allow retail cannabis in the community, and the Zoning Commission does not approve some framework, cannabis retailers will be allowed to open anywhere that retail is permitted. The referendum is November 7th, and the State Statute says that it would go into effect on the first Monday of December, so there is an urgency to have a public hearing in November. The draft the Zoning Commission was working on regarding cannabis retail only allowed the use in B-3 zones and only within 1,000 ft of the intersection of Route 202 and Route 44 and Bushy Hill Road.

- Chair Ryan proposed going through the details of the draft at that next Zoning Commission on September 19th.

Growth Management – Update on development tools

- Chair Ryan stated that some residents believe that we should have large apartment complexes and then there are some that believe we should have a moratorium prohibiting them. He believes that there is a point that you hit where you overdevelop an area.
- Mr. McGregor stated that there is a formal public hearing for the POCD on October 24th at 7:00 P.M., at the Simsbury Public Library. Prior to then the community has access to the draft and the Planning Commission is welcoming comments. Currently the POCD supports the need for housing of mixed-use type.

Temporary Signs – Update on sign regulations

- Mr. McGregor stated that temporary signs are the biggest issue with permits, length of time posted, and location posted. These vary depending on if the sign is for public purpose or for special business events. Center zone temporary signs do not require a permit. A-Frame signs require Zoning Commission approval.
- Chair Ryan stated that it would be nice to have the same standards for Center Zone and the rest of the town.

VI. ADJOURNMENT

MOTION: Commissioner Erickson made a motion, seconded by Commissioner Braz, to adjourn. The motion carried unanimously. (5-0-0).

Chair Ryan adjourned the meeting at 8:58 P.M.

Respectfully Submitted,

Amanda Blaze
Commission Clerk