

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, APRIL 21, 2010
TOWN COUNCIL CHAMBERS, 6:30 P.M.
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MINUTES

PUBLIC HEARING

Note: These are summary minutes. A tape recording of this meeting is on file in Wolcott Town Hall, Commission Secretary's Office.

Chairman Ray Mahoney called the Public Hearing to order at 6:33 p.m. with the Pledge of Allegiance and attendance was taken.

Roll Call Attendance

MEMBERS PRESENT: Pete Carmody, Cathe Sherman, Sam Zotto, Bill Olmstead, Ray Mahoney

MEMBERS ABSENT: None

ALTERNATES PRESENT: Chris Edquist, Vanessa Malena, Rich Delpier

ALTERNATES ABSENT: None

ALSO PRESENT: ZEO Dave Kalinowski, Mayor Thomas Dunn

PERMIT APPLICATIONS

- 1. #10-433 Robert and Christine Wright – Special Use Permit for a Daycare/Preschool Facility at 1790 Meriden Rd.**

ZEO said that the applicant sent in a letter requesting an extension on this application as they do not have all the information that was requested. Chairman Mahoney said the public hearing is continued to 5/5/10 at 6:30 p.m. in the Council Chambers.

- 2. #10-435A Al Podzunas – Special Use Permit for the Wolcott Youth Center at 48 Todd Rd.**

ZEO said Al Podzunas did submit a new site plan showing elevations, sewer and water connections and an architectural plan is on file. ZEO said the site plan is fine but Mr. Podzunas may need to raise or lower the elevations but that is a field adjustment and can be done at that time. There were a few questions regarding the type of crushed stone, vinyl siding, roof, etc. Chris Edquist asked about the parking situation and Mayor Dunn said his guess is most of it will be drop off and pick up. Mayor Dunn said most of the hours will be in the evening so you can utilize the Town Garage area. Vanessa Malena said she heard that this building may be used as a rental facility also. Mayor Dunn said no and it would follow the same State guidelines as the Senior Center or the (ball) fields do. He said if it was used otherwise it would not be a rental it would be as a donation.

Vanessa Malena said the reason she asked is because if it was going to be used other than drop off and pick up then parking should adhere to whatever our Zoning Regulations are for parking, number of handicap spaces, etc. Mayor Dunn said there is a Youth Committee that will be meeting

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regularly overseeing this.

At this time there were no more comments from the public or the Commission and the public hearing was closed on this application.

**3. #10-430 Musco Propane – Site Plan Application (and Zoning Permit) (revised to)
(3) 10,000 gallon above ground propane tanks at 585 Wolcott Rd.**

Attorney Salvatore said he wanted to confirm that the Commission members received the memorandum of law in their packets and then he gave a summary of it. (A copy of that report is on file). He said this was the former site of Diamond Oil and submitted an old site plan that was prepared for William Wesson, subsequent owner of the property, revised June 21, 1983. He said the significance of this site plan is to show that there were existing storage tanks on this property. Chairman Mahoney said that was prior to our Zoning changes and Atty. Salvatore said that is correct. He said it shows 3 above ground storage tanks and Bill Olmstead asked how large the tanks were and Atty. Salvatore said unfortunately they are unable to tell from this design. Commissioner Olmstead said just because something was there in 1983 it doesn't mean that is the way we want to set the trend for, that could have been what they wanted to change (in the regulations). Atty. Salvatore said if this Commission wanted to change this they would have implemented certain restrictions. He also said that as a matter of right they (Musco) are entitled to operate as a retail propane dealer. He said at last meeting Mr. Morrissey testified that Musco, pursuant to Conn. State Statutes and the Propane Industry Standards is a retail propane dealer, not a wholesaler despite what he might think or the Commission may think. A wholesaler is someone who is at the C Terminal or the Pipeline Terminal. Chairman Mahoney submitted a copy of the definition of a wholesale and retail from the 2nd College Edition of the American Heritage Dictionary. Attorney Salvatore said there is no definition in the Zoning Regulations for wholesale so for this Commission to apply a dictionary definition, included in their regulations, is illegal. Chairman Mahoney said but you want us to go by your propane guy's definition and Atty. Salvatore said yes, that is the law. Chairman Mahoney said Musco's has a use for retail not wholesale. He said when you sell something and make a profit on it and then that person turns around and sells it to somebody else that is wholesale. Atty. Salvatore said C-17 of the Zoning Regulation allows retail sales and distribution of heating fuel and natural gas, excluding tanks in excess of 10,000 gallons. He then referred the Commission to Tony Panico's letter where he concedes this is allowable as of right. He said he made the statement that they did not want tank farms. Sam Zotto said he brought that letter up at the last meeting and he then proceeded to read it into record, (See letter attached to the 2/17/10 minutes). Sam Zotto said as Planning and Zoning Commissioners we have some questions to ask. He asked how does this promote public health and safety. He said we have the requirement of the Rte. 69 Corridor to follow, property values, etc.

He said there is a lot of material that we have to look at and that wholesale/retail is such a small detail of everything else that goes into this. He then read regulation #35.1.1. Attorney Salvatore said that if you are concerned about public health and safety because there are tanks there the Fire Marshal will be required to approve it at all stages of installation. He also said that Musco has gone without incident since purchasing the property in 1998. Sam Zotto said the first tank was provided so Musco could supply propane to his customers only. He also said that this Commission

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has to look at promoting our Plan of Development, the public health and safety, etc. and we have a decision in this.

Atty. Salvatore said C16 allows warehousing and wholesale businesses including commercial storage and self storage facilities. He said there are other commercial uses in close proximity to Musco's which he believes are consistent with the Rte. 69 Corridor District plan such as gas stations, home improvement warehouses, manufacturing facilities, restaurants, etc. He said if this Commission, in contradiction to the law as it is defined, calls Musco a wholesale business that is allowed under C17.

He then read regulation C19a and a letter from the Fire Marshal dated 12/22/06. He said in 2006 the Town is calling Musco a dispensing station that is allowed under C19a. Chairman Mahoney said it was the Fire Marshal who stated that. He also said this Commission, although they might be unhappy with the regulations as they stand, perhaps should direct their efforts to revise the regulations to exclude stuff that they don't believe is in accordance with the plan but as drafted these regulations allow for this use.

Mike Morrissey said everyday this Town sees numerous transport vehicles and statistically if there is an incident involving propane chances are it would be would a rolling transport. He said this community has lived along side propane risks for many, many years. He said we do not have enough secondary storage to support the retail activities that we are in engaged in that is why it is important to get additional storage. He said when things get tight you will see one marketer divert a load of propane to another marketer who might not be able to get a load from his traditional supplier.

He said that is one dealer dealing with another dealer in support of a retail activity. He said this product is becoming more popular and we are trying to keep up with the demand. Cathe Sherman said if you double the amount of storage you would be doubling the loading and off loading which in turn would double the dangers. Mike Morrissey said no (that is not true). He said just because they increase the storage doesn't mean that we would be doubling deliveries. Bill Olmstead said Musco's has the potential for more on loading and off loading that is why he wants to increase the amount of capacity because he probably plans to expand. Mike Morrissey said as he grows there will be additional deliveries of wholesale propane to the facility and along with that it would mean more drivers and technicians. Randy Petroniro said they have approximately 13 employees. Chairman Mahoney asked where everyone would park during the peak season. Atty. Salvatore said it is a family owned business and a number of these employees come together. Bill Olmstead said that if this is allowed it would be setting a trend on the Rte. 69 Corridor and that is why we are scrutinizing this application. Mike Morrissey said he does not believe the Commission is giving the applicant a hard time you are just doing your due diligence. He also stated that this additional storage would basically max out his growth at this facility. Pete Carmody asked if there has been any consideration into burying the tanks. Mr. Morrissey said they have not looked at that option, he would have to consult with an engineer as manifolding an above ground tank with a below ground tank may have some technical issues. He then named other locations where there were 30,000 gallon tanks or more that are located near a residential area. ZEO asked if gas stations would eventually start selling propane and Mr. Morrissey said yes. Mr. Morrissey said in Las Vegas and Los Angeles they currently have vehicles using propane.

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Steve Giudice, Land Surveyor said he corrected a few items on the previous site plan. He said he changed the allowed coverage from 35% to 75%, on the parking table he changed 165 square feet to 250 square feet for the parking requirements under special retail establishments and added the square footage for the existing garage. He said they are proposing 14 parking spaces and the requirement is 11 spaces. Chairman Mahoney asked what the distance was from the residential area for the two spaces on the left side of the loading area. Mr. Giudice said they are approximately 25 feet from the residential zone. Atty. Mahoney asked if there were any issues with the site plan as presented and ZEO said I think the question he is asking is with district separation. ZEO said in the regulations you have to be 50 feet from a residential district with a structure but as far as the parking he would have to check into that. Mr. Giudice said they made modifications to some of the curb cuts and to the island area to make sure they have proper turning movements for tractor trailers. There was discussion regarding the 3 parking spots marked inside the garage. Mr. Giudice said they only require 11 spots and are proposing 14 so they are within their requirements. Cathie Sherman again questioned where trucks will wait when one is already in lot loading or unloading. Mr. Giudice said there is adequate room on site for quite a few bobtails to sit. He said Musco's has their large deliveries done early in the morning before other vehicles are on site. Mr. Giudice said with this application they tried to stay in harmony with the existing site and they are proposing these tanks according to the Regulations. He said they do not feel it will have an adverse impact on the values of the properties in the area.

At this time several residents came forward to again express their concerns with the proposed tanks. Their main concern was public safety. Mr. Birkenberger brought up the Middletown explosion and that company is quite a distance from residential areas. He also said Musco's is in violation of the Zoning Regulations pertaining to privacy vegetation that should be in front of the existing tank. He said Planning and Zoning should hire someone to check the actual measurements on the plan to be sure the tanks will be 80 feet from the centerline. He also said Wolcott would not be able to afford it if the tanks explode. Ms. DePara said this property does not conform to NFPA58 as the garage is not 50 feet from the existing tank, it is only 10 ft. She said it was moved from 50 feet to 10 feet because an insurance agent deemed the garage insignificant. She also said the more storage they get, the more customers they get and more bobtails are needed. She said she has seen transport drivers walk away from their trucks when off loading which is illegal. She said if it doesn't conform to one 30,000 gallon tank then why would you want to add three more 10,000 gallon tanks. She said the other companies that were mentioned earlier are large companies in large areas. Mr. Yankus said that 330 gallons of fertilizers, nitrate and soaked in kerosene in the Oklahoma bombing destroyed a Federal Building, killed 168 people and injured 600. He suggested a study be done on the affects of a propane leak being that this is close to the Mad River and Wetlands.

James Frageau said he is a 30 year member of Company 1 Fire Dept. and a 15 year member of the Fire Marshal's Office and was involved in the past with a propane tank that rolled over in Town that tied them up for 15-20 hours and an area was evacuated. He also said there were safety things in line on the truck that was supposed to prevent leakage but didn't work because of the age of the truck. One of his concerns were if you add 30,000 more gallons of propane it would only increase the possibility of an accident as it is a busy road and there would be more bobtails going in and out.

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His other concern is the impact to Rte. 69 if there was an accident there, are you ready to close Wolcott Rd. for a minimum of 10-20 hours. He said that would be for a leak if there was an explosion God only knows what would happen. He said if there was a leak you would have to evacuate a minimum of a half mile and are we prepared shelter wise, manpower wise during the day. Another concern of his was what if the business fails as you know F&S Oil was in business a long time and they closed. He said check out that business now, it is an eyesore, the tanks are still there and the business is empty. ZEO asked if there ever was an incident at Musco Fuel in the 30 years he has been with the Fire Dept. Mr. Frageau they have had incidences there but the Fire Dept. has responded only once. He said they did have an incident where a driver was sitting in his truck and the liquid petroleum was running on the ground. He said there were other incidences where one of the trucks was not inspected, where trucks are left unattended when loading/off loading. He said they did notify Musco and letters went out to the companies involved and the issues were taken care of.

He also said Musco Fuel was notified of flammable materials (wood pallets) in the caged in area and they cleaned it out. Cathe Sherman said there has been reference to an ignition source near the tanks and asked him (as a firefighter) how much of that is a concern. Mr. Frageau said after looking again recently through the code book there might be issues that we missed on the first permit in regards to the building next door. He said that book is complex, in lawyers terms, hard to understand, etc.

He said that gas stations in town do not get tested the same as the propane stations. He said in gas stations they look at break aways on the gas pumps, rotten, defrayed hoses, fire extinguishers, their emergency shut offs inside the building. He said propane is considered a hazardous material as it can burn you and it has an explosive level. ZEO asked if there were any other propane tanks on Rte. 69 that he inspects and Mr. Frageau said no. He said they may look at those that are used to fill your propane tanks (for gas grills) as just a general inspection. Mr. Frageau had pictures he took from two local facilities that are in areas where the residential count is way down and you will see that the areas have plenty of room for the trucks to pull onto the grounds, back up and do whatever they need to do. He thinks that they are a much safer facility as far as getting the rigs off the road and being away from the main roads, like Wolcott Rd., if something were to happen.

Mike Morrissey said the way they make sure a bulk installation is safe is by completing what is called a Fire Safety Analysis. He said this was done with Fire Marshal Emons last year when they were looking into the other 30,000 gallon tank last year. He said that analysis engages the Fire Marshal and State Fire Marshal. He also said that when there have been concerns Musco took care of those concerns immediately. He said they take the concerns seriously and they have had training activities at their facility. He said the Fire Marshal is the trained authority in the Community and he has gone through a lot of training and part of the code is the handbook interpretation. He addressed a few points in the handbook but you would need to go to that book (to review if any concerns) and you also need to rely on the Fire Marshal. He also said Homeland Security has already looked at this and approved. He said propane does not need to be looked at by DEP because it doesn't apply, propane does not pollute. He said the only inspections required is an annual one done by the Fire Dept. done on the bobtails only. He also said this requirement was done away with by Senate Bill #1008 that was passed into law. He said unless a Town creates an ordinance mandating that these trucks be inspected then they no longer have to be by 2011.

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Cathe Sherman asked if there was an infraction is there a follow up from D.O.T. and Mr. Morrissey said yes the violator has to report the corrective action if a citation was issued within a stipulated period of time.

Mr.Zaccagnino said Mr. Morrissey spoke of D.O.T. involvement in truck inspections and wanted to remind everyone about the Avon Mountain accident where a trucking firm was inspected a number of times and their own mechanics signed off on the infractions. He said that is all that is required now, that your own mechanics can sign off on infractions. He said there is too many accidents and human errors (on Rte. 69) to let this occur again in this area. He said Musco should expand in a more enclosed area, maybe Tosun Rd. or Nutmeg Valley Rd. area.

ZEO said the responsibility of this Commission is for safety, property values, etc. He said you have to ask yourself what do you want to see developed on Rte. 69 and you have the information before you in order to make a decision. He said he will answer any questions they may have pertaining to the regulations. Vanessa Malena asked if the plan meets the parking setbacks and ZEO said he believes so but he would have to check into the 50 foot setback from a residential district. He said that he knows structures have to be 50 feet from a residential district (in a G.C. Zone) but as far as parking he doesn't believe so but he will check into it and have an answer for the next meeting.

Chairman Mahoney said the public hearing for this will be continued to May 5, 2010 at 6:30 p.m. in the Council Chambers.

Upon **MOTION** by Pete Carmody, seconded by Cathe Sherman, it was unanimously voted to take a 5 minute recess at 8:53 p.m.

REGULAR MEETING

At 9:03 p.m. Chairperson Ray Mahoney called the Regular Meeting to order and roll call attendance was taken. (Same as public hearing attendance listed above).

PUBLIC REQUESTS

There were no Public Requests at this time.

APPROVAL OF MINUTES

Upon **MOTION** by Pete Carmody, seconded by Cathe Sherman, it was unanimously voted to **APPROVE** the minutes from the 4/7/10 Public Hearing and Regular Meeting.

APPROVAL OF BILL

There were no Bills at this time.

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CORRESPONDENCES

There were no Correspondences at this time.

SUBCOMMITTEE REPORTS

There were no Subcommittee Reports at this time.

OLD BUSINESS

- 1. #10-433 Robert and Christine Wright – Special Use Permit for a Daycare/Preschool Facility at 1790 Meriden Rd.**

Chairman Mahoney said the public hearing on this has been continued to the 5/5/10 meeting at 6:30 p.m. (in the Council Chambers).

- 2. #10-435A Al Podzunas – Special Use Permit for the Wolcott Youth Center at 48 Todd Rd.**

Upon **MOTION** by Sam Zotto, seconded by Pete Carmody, it was unanimously voted to **APPROVE** #10-435A – Al Podzunas – Special Use Permit for the Wolcott Youth Center at 48 Todd Rd.

- 3. #10-430 Musco Propane – Site Plan Application (and Zoning Permit) for (3) 10,000 gallon above ground propane storage tanks at 585 Wolcott Rd.**

Chairman Mahoney said the public hearing on this has been continued to the 5/5/10 meeting at 6:30 p.m. (in the Council Chambers).

- 4. #10-437 and #10-438 RSK Realty – Special Use Permit and Site Plan Application for 48 Non-Assisted Elderly Rental Units at Lyman Rd. and Potuccos Ring Rd.**

ZEO said the plans for this have been forwarded to the Consulting Town Engineer and Consulting Town Planner for their review. He said the Public Hearing for this will be scheduled at a later date.

NEW BUSINESS

There was no New Business at this time.

ZONING ENFORCEMENT OFFICER'S REPORT

There was no Zoning Enforcement Officer's Report at this time.

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EXECUTIVE SESSION

There was no Executive Session at this time.

ADJOURNMENT

Upon **MOTION** by Sam Zotto, seconded by Cathe Sherman, it was unanimously voted to **ADJOURN** the Regular Meeting at 9:07 p.m.

APPROVED:

Ray Mahoney, Chairperson
Planning & Zoning Commission

Edna Henderson, Recording Secretary
Planning & Zoning Commission

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