

**WOLCOTT PLANNING & ZONING  
PUBLIC HEARING AND REGULAR MEETING  
WEDNESDAY, NOVEMBER 7, 2012  
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 6:32 p.m. with the Pledge of Allegiance and then attendance was taken.

Roll Call Attendance

**MEMBERS PRESENT:** Cathe Sherman, Chris Edquist, Rich Delpier, Ray Mahoney

**MEMBERS ABSENT:** Pete Carmody

**ALTERNATES PRESENT:** Mike Bokon, Virginia McHugh

**ALTERNATES ABSENT:** Sean Cleary

**ALSO PRESENT:** David Kalinowski, ZEO

**PERMIT APPLICATIONS**

- 1. #12-476 Beach Building LLC – Special Use Permit for a 140 Unit Assisted Living Facility at 50 Beach Rd.**

Chairman Mahoney said the following correspondences were received (and on file) pertaining to application #12-476: 1) Letter from Chairman of Sewer and Water Commission dated 3/5/2012 stating based on preliminary review they have the capacity to service the project with both public sewer and public water. 2) Letter from Chairman of Inland Wetlands Commission dated 9/17/2012 stating activities proposed are outside the 100' review area. 3) Letter from Fire Marshal dated 9/28/2012 stating his comments. 4) Letter from Consulting Town Engineer dated 10/3/2012 stating his comments. 5) Letter from Vincent and Sherri Messina dated 11/5/2012 stating their concerns and opposition to proposed plan.

Steve Pustola and Brian Plourde from Pustola and Associates came forward to go over the plans for said project. Mr. Plourde said they are looking for approval to allow construction of a 140 unit three story assisted living facility at 50 Beach Rd. He said the property is in an R-30 zone and is approximately 23.98 acres and contains the Wolcott View Manor Convalescent Facility. He said the parking area for said facility will contain 138 parking spaces with access via a new driveway off of Beach Road, servicing both buildings. It will be adequately landscaped and screened with walking paths, patios, garden areas, and rain gardens. Area lighting will be decorative light poles and all lighting will meet the requirements. He said the storm water run-off from the parking surfaces will be directed into a storm water collection system, then into a detention basin and then released into a drainage system, down the driveway and into Beach Road. He said the drainage system is designed to achieve the required zero increase in run-off as mandated. He said roof drainage will be collected and discharged into the two rain gardens. He said a new center sewer

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main from Beach Road will be installed and fire and domestic water service will be brought in from Eva's Terrace. He said a traffic study was performed in May 2012 and the results indicated the adjacent roadway network can readily absorb the additional vehicle trips generated during peak hours. He also said the standard sediment and erosion control will be utilized during construction, sedimentation barriers and staked hay bales for slopes, and hay bales and silt sacks at each catch basin, and stone and tracking pads at the construction entrances.

Brian Cleary came forward and said that he is here to represent Beach Building LLC. He said back in 1974 his father and his father's brother made an investment in the town and built what is now the only skilled nursing facility in Wolcott. He said to date he, his father, brother and sisters and the thousands of people they employ have had the privilege to care for tens of thousands of Wolcott's other residents in their time of need. They have also had the honor of caring for thousands of children from 6 weeks old to middle school aged in their daycare and after school programs all of which are open to the public. He said they are looking to fill a void in this community, that of the elderly, who are not yet ready for skilled nursing care. He said they intend to provide a service to the elderly with this project so that they may maintain an optimal level of independence as long as possible. He said this investment is not for just one person but for what really matters in this community, the elderly, our children, our mothers and fathers, our neighbors, etc. He said this will create 75 to 100 new jobs in the town along with a significant amount of yearly tax revenue for the town. He said on behalf of himself and his family he is looking forward to building this state of the art facility and providing quality care to Wolcott's residents for decades to come.

At this time Attorney Pilicy, representing Dennis Cleary, came forward to state his comments in opposition of this project. He then went on to state the sections of the zoning regulations that are pertinent and have to be taken into account for this application to be considered. He said there are certain areas where this application as presented cannot meet the requirements. He said this is a special permit application which requires special considerations with respect to health, safety, general welfare, and more significantly the impact on character and harmony of the neighborhood. He said the next purpose of the zoning regulations is to prevent the overcrowding of land (Sect. 1.3.5) and that is one of the major concerns of Dennis Cleary as an abutter is that this is overcrowding of this land as it is presently proposed. He said the next section (1.3.7) is very pertinent and that states to conserve the value of buildings and by that he means the value of Dennis Cleary's property. He went on to say that there is at least one non-conforming use that already exists on this property and there has to be a professional study done by this Commission or perhaps it's consultants on how the existence of a present non-conforming use may impact further construction, additional buildings or additional use of this property. The following is a list of further definitions that Attorney Pilicy wanted noted and asked the Commission and consultants to take these into account (with consideration to this project): Section 3.5 Building Lot Coverage, 3.6 Building Height, 3.7 Child Day Care Center, which is the non-conforming use that exists, and also to look at the elderly assisted which appears in a couple different places of the regulations. Section 3.23 Lot Area and contiguous buildable land, where in our regulations there are certain types of land that are considered not buildable, such as steep slopes, wetlands and watercourses, ponds, and the plans submitted do not show wetland areas, etc. He went on to say they had issues with respect to the proposed use, (referred to 3.38.1 accessory use and 3.38.2 principal use), and there are already two uses on this property and now a proposed third use. He said under section 4 it talks

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about non-conforming situations and there is specific criteria that has to be considered when you have a non-conforming lot. He said if you fail to meet any one of the regulations or requirements for a lot then it is defined as non-conforming and 4.6.2 states you cannot use a non-conforming lot for any use which requires a special permit under Schedule A. He went on to say you need to look at Section 4.8 Parking, Section 22.2 Interpretation of Map, Section 23 Permitted Uses, Section 23.2 Prohibited Uses where it says all uses not expressly authorized are prohibited are you may want to get the opinion of the Town Attorney or Tony Panico. He said the proposal before us is for an additional building and additional principal use and there is nowhere in the regulations that authorizes additional and/or multiple buildings on the same lot. He asked that the Commission look at the access way requirements and coverage and bulk (regulations). He went on to discuss the purpose and process of section 31 Site Plans and Special Use Permits. He said under Section 31.11 there are a number of submittals that are required for an application of this nature and we feel that many of them are missing. He went on to discuss Section 31.11 Application Materials, 31.12.7 Character and Appearance and asked the Commission to take into account the other sections of the regulations that inquire about size, density and intensity and that all those factors are compatible and harmonious with the character and appearance of the surrounding neighborhood. He said that Sections 31.13, 31.13.2, 31.13.6, and 31.13.8 all talk about the neighborhood, building arrangements, scenic vistas and so forth as they affect the neighborhood. He then said that special permits are a type of permit that are not necessarily authorize but can be if all standards are met and you can provide for public health and safety then you can approve the permit but if you cannot do it without conditions then you are require to add said conditions. He said there are a number of court decisions going back 12-14 years that tell us that a special permit may be denied when you cannot adequately protect the character, harmony and property values of the abutting property owners.

Dennis Cleary came forward to discuss the plans submitted and to give his additional concerns besides those stated by his attorney listed above. He said there are between 6 and 10 abutting properties that are not listed on the site map and regulations require such. He said regulations state that the survey map be signed and embossed and it is not so he is not sure if this is a final map or if the surveyor even knows this is on file. He said there are no zone lines, topo's, wetlands locations, existing conditions or easements shown on this survey map. He said there is not enough detail on map to show whether or not the existing complex is conforming or not conforming and would they be making it less or more conforming than it currently is. He said there is an approval from 1992 in the rear of the property for a two story addition for which the foundations are already in place and they are not counted in lot coverage or building square footage. He also said there was a variance in 1992 for the side yard in that particular corner of the property prior to that foundation and site plan being approved. He said the total square footage of the building is not called out, just the footprint and there are areas that are two stories. He said the scale on the survey map is not to regulations. He said on map SP-1 there are no building floor areas shown and under Schedule B, Item #8 there is a maximum floor area and he believes that this proposal with what is already there goes over the 20% allowed. He said there is no mention on the application or any of these maps that there is a daycare facility licensed by the State for 58 children or the location of it. He said on map SP-2 there are no wetlands shown and you cannot tell how much property is actually wetlands. He said on map SP-3 there are no topo's, in particular to the rear property line, and no rear property line shown. It does not show where the catch basins drain to and does not show drainage calculations. He said on map SP-4 existing property drainage and easements are not shown on the

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site utility plan. He said on map SP-6 there is nothing shown that provides any buffer to the residential properties around this project. He said there is not one berm or one tree that is being put in shown. He said that in the rear property wetlands has the ability to approve additional plantings within 100 feet of the wetlands to provide some buffer. He said in Section 31.11.6 it calls for what the building plans are supposed to entail on a special use permit and Map A-1 doesn't even come close to what is required. He said this plan shows 150,000 square feet and the site plan shows 138,900 square feet, which is it? He said this is a front view only of the elevations and regulations require that all elevations be included in the building plans. He is requesting that this project be referred to the Town Planner as all major projects have, by precedent, been referred to Anthony Panico, who has written much of the current zoning regulations. He is asking that this be referred to Chesprocott for their comment on the 8 water wells currently on site. He said they are also involved in the licensing of the onsite daycare facility. He said it should be reviewed by the Chief of Police for any potential safety issues, like sidewalks for pedestrian safety and to the State of Connecticut Dept. of Health. He said that this is the largest project ever to come before Planning and Zoning so the use of all available experts to do your due diligence would be appropriate. He went on to discuss some of the Plan of Development and if a 140 unit building is consistent with the neighborhood. He then went on to state his concerns with certain regulations that Attorney Pilicy already discussed. In addition to what Atty. Pilicy discussed he also noted issues with Section 3.18 Floor Area Maximum, 3.32 Definition of a Story, Sections 25.2, 25.2.1, 25.2.2 and 25.5 Lot Area & Shape, Interior Lots and Lot Coverage and Bulk, Sections 31.2, 31.4.1, 31.5.3, 31.5.4(b), 31.11.3, 31.11.4, 31.11.5, 31.11.6, 31.12.4, 31.12.7 all pertaining to Site Plan Application and Special Use Permit Application requirements, such as application information, materials and documents, Commission review, location maps, existing conditions map, building plans, landscaping and screening, and character and appearance. He submitted a map from his surveyor that shows the site lines from his property into this projects property and it basically says that from his living room and bedroom he will see 21 feet of the height of this building.

Walter Kloss, from Kloss Appraisal Services, came forward and did a review to determine what impact, if any, this proposed development would have on the value of Dennis Cleary's property. He said that from a 6 foot height that in the great room and master bedroom you will see 21 feet of the proposed building and from the second floor bedrooms and office you will see 28 feet of the proposed building. He said the parking lot lighting and lighting from the third floor units will be highly noticeable year round. He went on to discuss how this project would detract from the woodsy aesthetics of residences yards and negative influences from projects like this have been known to reduce market values by 20 to 30 percent. Attorney Pilicy said he would request that the Commission require a market study for this to see if there is a market for it. He said the project is too dense and it would have an adverse impact on all the neighbors. He said there is no provision in the regulations to allow multiple principle use buildings on one lot therefore it would be prohibited unless he is missing something in the regulations.

Rob Onofreo said he is not opposed to project but would like to see some things done as the site map is a mess. He said when he did his site maps (for his project) everything was done through Tony Panico. He believes this project should absolutely go to Tony Panico because of the size and also for what Mr. Cleary discussed tonight pertaining to zoning, etc. He said as far as wetlands he would like to know if this will need a third party review, like Milone and MacBroom, for drainage

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calculations and such. He said his proposal was for three 20 unit buildings and Tony Panico said it did not conform to surrounding neighborhood and he had to spend thousands to have it conform and he doesn't understand how a 150,000 square foot building conforms to the area. He said he is not opposed to this but maybe construct a smaller building that conforms to the area and would not be such an impact to the neighbors. He said he believes this should go to Tony Panico and that every developer should have to follow the same rules that he had to for his project.

Kim Updegraff and Bill Campbell from Evas Terrace came forward and said they first found out about this project by a mailing they received. Ms. Updegraff said she is opposed to the size of building something like this close to her house and opposed to the access road, which is a danger to her children who are always playing in front of their house. She said her house depreciated already \$100,000.00 the first year due to the housing market and now will depreciate more with this project if developed. She is worried about the noise and construction trucks going up and down the road and the safety of her children. She is worried about them tapping into her pipes and her water service being affected. Bill Campbell said he would like clarification on the access road and he was one of the first lots at the end of the cul-de-sac and when reviewing the plans back then there was no access road noted on those plans. He said now 6 years later we are looking at plans that show an access road, how did this come about? He said is it going to be gated and locked? He wants clarification on how the access road was added in between two lots when 6 years ago it wasn't even there.

Attorney Pilicy asked the Commission to research the history of the access road because it was his understanding that the initial subdivision that was approved did not have the access road shown and there may not have been the proper modification to allow it.

Steve Pustola said they have been working on this project for a couple of years now with the town staff and various agencies. He said we do have Wetlands and Sewer and Water approval. He said it was the suggestion of the Fire Marshal to have the access road. Chairman Mahoney asked why wasn't the access road on the plans when the people built (on Evas Terrace) and Mr. Pustola said he did not know. Brian Cleary said he believes the developers on Evas Terrace built over on their property line and that there was a land swap due to that. Rob Onofreo said he built 2 feet from (Brian) Cleary's property line and was more or less strong armed into selling a piece of property and give him money or he had to knock down the house and that is how the property was acquired. Mr. Pustola said they would need some time to address the comments (from tonight's meeting).

At this time Chairman Mahoney said this public hearing will be kept open as he would like Tony Panico to look into this and Dave Kalinowski said that Tony Panico is in Florida now and we could put in a request to him but the Town Engineer and Town Attorney are already looking into this project and addressing it. Dave Kalinowski said we already have a traffic study and if the Commission would like a market study then they should request it from the applicant. Dave Kalinowski said the applicant and the Town Engineer have been corresponding back and forth regarding the drainage. He said the Town Engineer will review the traffic study also and if you want the Police Chief to review the traffic study he can forward it to him for his comments. Chairman Mahoney asked ZEO to talk about the other two properties that have emergency access ways. He said it was by request from the Fire Marshal's office to put in two access ways, one on

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Wolcott Road between two office buildings that has never been used. He said there is actually a break away gate for Hampshire Glen Elderly Facility and there is an access way off a subdivision off of Lancewood that is an emergency access to Lake Hill Village. These are for emergency vehicles only.

Mike Bokon asked if it is possible to send these plans out for a third party review for drainage and wetlands. Dave Kalinowski said that third party review is for Inland Wetlands and we already have their review and approval. He said with Mr. Onofreo's project his wetlands were within the 100 foot review area and that is a whole different process. He said this project is not within the 100 foot review area. Mike Bokon said we are only getting a letter (from Inland Wetlands) but there is nothing showing on the maps so is it possible to see something from Inland Wetlands. Dave Kalinowski said the questions that were directed to the Commission tonight, which would require the Inland Wetlands to be seen (on the maps), he said he sees the wetlands marked on the maps but if you want it to be more clarified on the maps then he is certain that the applicant will submit such. Cathe Sherman is asking for a review from the Volunteer Ambulance and also for the applicant to answer the questions that were addressed tonight.

Chairman Mahoney said the public hearing for this application is continued to 12/5/2012 at 6:30 p.m. in the Council Chambers

Upon **MOTION** by Cathe Sherman, seconded by Rich Delpier, it was unanimously voted to take a five minute recess at 8:10 p.m. (The meeting was reconvened at 8:15 p.m.).

**REGULAR MEETING**

At 8:15 p.m. Chairman Mahoney called the Regular Meeting to order. (Attendance was taken and it was the same as listed above under Public Hearing).

At this time Mike Bokon was seated as a regular member.

**PUBLIC REQUESTS**

There were no Public Requests at this time.

**APPROVAL OF MINUTES**

Upon **MOTION** by Chris Edquist, seconded by Cathe Sherman, it was unanimously voted to **APPROVE** the minutes from the 10/17/2012 Regular Meeting.

Mike Bokon abstained due to absence.

**APPROVAL OF BILLS**

There were no bills at this time.

**CORRESPONDENCES**

There were no Correspondences at this time.

**SUBCOMMITTEE REPORTS**

There were no Subcommittee Reports at this time.

**OLD BUSINESS**

1. **#12-476 Beach Building LLC – Special Use Permit for a 140 Unit Assisted Living Facility at 50 Beach Rd.**

Chairman Mahoney said the public hearing on this application has been continued to 12/5/2012 at 6:30 p.m. in the Council Chambers.

**NEW BUSINESS**

There was no New Business at this time.

**ZONING ENFORCEMENT OFFICER'S REPORT**

Chris Edquist asked about a new business going into where Wolcott Tire was and ZEO said supposedly there is a new business going in there but there are no permits right now he is just remodeling the building. ZEO said there is supposed to be an exercise place and a lawn care business going in there but the owner was told he can do what he wants to the building but he doesn't have a permit (to operate anything at this point). ZEO said the building inspector told him that they have already started on a site plan, etc. ZEO said there is a new pizza place looking to go in where there was one before in the Johnny B's plaza. ZEO said there was an application approved years ago for a building on Bound Line Rd. but the permit has expired and the owner has come in looking for a renewal of that so it will be on the next agenda. ZEO said for everyone to review the information received and discussions, pros and cons and do your due diligence in reviewing the project discussed tonight. He said it is up to the applicants, etc. to produce to the Commission whatever it is they may be saying is conforming or non-conforming.

**EXECUTIVE SESSION**

There was no Executive Session at this time.

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**ADJOURNMENT**

Upon **MOTION** by Cathe Sherman, seconded by Mike Bokon, it was unanimously voted to **ADJOURN** the Regular Meeting at 8:25 p.m.

APPROVED:

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Ray Mahoney, Chairman  
Planning & Zoning Commission

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Edna Henderson, Recording Secretary  
Planning & Zoning Commission