

WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 1 of 7

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 6:30 p.m. with the Pledge of Allegiance and then attendance was taken.

Roll Call Attendance

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

MEMBERS ABSENT: None

ALTERNATES PRESENT: None

ALTERNATES ABSENT: Pete Carmody, Virginia McHugh

ALSO PRESENT: David Kalinowski, ZEO

PERMIT APPLICATIONS

1. **#13-484 Christopher Funk – Special Use Permit for a 30' x 28' detached garage at 26 Woodtick Rd.**

ZEO said this is a special use permit as it is an oversized garage. Mr. Funk said that after he filed the application he found out he could get a 30' x 30' garage for the same cost so if no issue he would like to change it. ZEO said whether it is a 30' x 30' or 28' x 30' it wouldn't matter as it still would be a special use permit and he believes the coverage will be fine. Mike Bokon asked if he would be running any business out of the garage and Mr. Funk said no.

At this time there were no more comments from the public or the Commission and the public hearing on application #13-484 was closed at 6:48 p.m.

2. **#13-482 Liberty Wolcott LLC – Amendment to Zoning Regulations to permit Section 8-30g Affordable Housing Developments in the RC District.**

Attorney Wise came forward and stated this application was for a text amendment to permit affordable housing pursuant to Section 8-30g of the Connecticut Statutes in an RC zone. He said they have tailored the criteria under which one of these developments will be permissible to fit what we think is the only parcel in Wolcott that can meet this criteria. He said that Watercreek Estates consists of approximately 24 acres and back in 2006 this Commission

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 2 of 7**

approved a 63 unit age-restricted development. He said 6 units were constructed of which 3 are occupied. He said the infrastructure for this development is virtually complete, the roadway and the drainage systems are all done. He said the developer went bust, there was a foreclosure and his client wound up with the property. He said after his client took the property in 2012 they came before us with a proposed text amendment that would have allowed the 63 unit development to proceed to completion without the age restriction. He said there is no longer a market for age-restricted developments and numerous towns have eliminated age restrictions with respect to developments that have already been approved. He said what they said at that time, it wasn't meant as a threat it was just meant as a statement of reality, that the only thing left to do with the property is to build an affordable housing project because it is almost impossible for a town to deny (such). He said they were hoping of course that his client as you know would prefer to build out the 63 unit development without the age restriction but you basically left his client without any other use for this property and so we are here proposing a text amendment to allow affordable housing.

Atty. Wise went on to explain what Section 8-30g is. He said it is a special zoning provision that supersedes all local zoning and it was enacted in 1990 for the purpose of addressing the chronic shortage of decent housing for low income people who cannot afford to pay market rates for housing. He said it applies to either projects for the sale of units or the rental of units. He said the act itself encourages towns and developers to propose affordable housing projects in order to address the shortage of low income housing throughout the State of Connecticut. He said there have been a lot of litigations and appeals under this statute for projects that have been denied and the courts have said over and over again that the main purpose of this statute is to encourage and assist the development of affordable housing, so it trumps all local regulations and rules. He also said that it provides for 1) assisted housing, housing for which there is governmental assistance and 2) set aside housing for which the developer has to set aside 30% of the units for lower income people, people that are unable to afford market rates. (He then went on to explain this in further detail). He said if you are proposing a Section 8-30g development then the usual zoning rules go out the window, density and various other controls go out the window. He said the only real limitation is what the parcel can physically accommodate. He said the reason for that is if you are building a development in which 30% of the units you are going to get far less than market rates then you are allowed to compensate that by building far denser developments than you would otherwise be able to build under the usual zoning requirements. Mike Bokon said wouldn't that be land that is not even developed yet, you have buildings already structured there. Atty. Wise said as the memo from C.O.G. says this is an ideal site because the infrastructure is already in for multi-family. He said this would be even harder to deny because we have already recognized/approved a multi-family development here. Mike Bokon said what about the families that are there now and Atty. Wise said they will deal with that, that is their problem and not the Commissions. He said the legal relationships between unit owners and the owner of the development is a private legal issue that the Commission doesn't have authority over however, he is confident that they will be able

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 3 of 7**

to work appropriate agreements with the 3 unit owners or if not we are confident that the existing condominium documents will give them the authority to do this. Atty. Wise then went on to explain the zoning appeals process and who has the burden of proof, the applicant or the Commission, etc. He said if they appealed and the agency (Commission) has to prove that the decision they made is necessary to protect substantial public interest in health, safety or other matters which the Commission may legally consider and 3) the public interest clearly outweighs the need for affordable housing and 4) such public interest cannot be protected by reasonable changes to the affordable housing development. He also said that burden has almost proved to be insurmountable in the 8-30g appeals. Atty. Wise said the statutes says that towns are subject to 8-30g affordable housing unless you have 10% or more units in town that satisfy the affordable standards set under said act. He said every year the DECD publishes a list of the 169 towns in Connecticut and in 2011 only 29 towns satisfied the 10% requirement. He said only 6.96% of Wolcott meets the affordability standard of said act. At this time Atty. Wise went through the amendments, definitions, etc. that they are proposing (see copy attached). Atty. Wise said his client has engaged in an engineering firm to prepare the actual application and they have done a concept plan and are working on the details for an application. He said the concept plan shows 232 units; Mr. Mahler said he believes it is 248 units. Atty. Wise said they are conceptual plans and they are subject to further revisions. ZEO said the only zone that this (affordable housing) would not be permitted on would be an industrial zone. Atty. Wise said this was industrial at one time but once changed it is fair game for affordable housing. He also said that what we have (conceptual plan) is a development of roughly 230 units, his client says it may be slightly more. He said most will be 3 and 4 bedroom units, and a few 2 bedroom units. He said there is a lot of demand for this (type) of project (in suburban areas) because low income people want to live in nicer areas and have their children educated in better school systems. Cathe Sherman asked why we need a text amendment if the State of Connecticut already (supersedes town regulations) and Atty. Wise said legally we do not need a text amendment but he thought this would be a better way to proceed, fairer to the Commission. He said if the Commission denies the text amendment they will still come back with the actual application. Keith Mahler said there are a set of guidelines and regulations and typically when developers come in they are looking for a certificate of zoning compliance for financing. Mr. Mahler said one of his issues is to make sure everything is done properly, from a financing standpoint, and as a lender his biggest concern is to make sure they have gone through all the hoops. He said so if the town was to adopt the zoning for the text amendment he could now come in and ask for a certificate of zoning compliance as opposed to being outside of compliance. Ray Mahoney asked if that makes it easier to sell and Mr. Mahler said easier to finance. Atty. Wise said they are serious about the application and hopes (the Commission) approves it.

Lou Mazzeo came forward and said he would like to board to be aware that there is an open end mortgage that Mahler Realty has from Naugatuck Valley Savings and Loan and it has a restriction on the sale and use of the property. He went on to read part of the agreement (copy on file) and said unless the board has received something from the bank that holds the

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 4 of 7**

mortgage for Mahler Realty, he cannot do anything with that (property as the agreement) is stating, unless agreed upon. He has to leave it as is, the way it was originally with the mortgage that was there. Mr. Mazzeo went on to say that there is a State Statute that says unless Mr. Mahler has received 80% of the unit owners who live there that are willing to abolish the declarant rights then neither the State nor Mr. Mahler can abolish them without the (owners) signing off on such. He said these are two hurdles that are very important that Mr. Mahler has to get to and give to the Commission in order for them to even consider an amendment (to the zoning regulations).

Ray Rinaldi agrees with above that Naugatuck Valley has to approve any change and he said we are already at 7% for low income and affordable housing, we are only 3% away. He said why does this have to be right on Rte. 69, our gateway to the Town of Wolcott. He feels it is definitely not the place to put an affordable housing project.

Tony Gugliotti came forward and said this proposal should not be a slam dunk for the new owner. He said there is a distinct difference between this development and what it was previously approved for. He said (Mr. Mahler) bought into a development that was already 55 and over and there are restrictions on such. He said multi-family housing is there because it is restricted, restricted to 55 and over and that is the approval for the multi-family. He said it is not any other reason, it is not low income and that's not what it was there for. He said if it was a new development it would be a different story but this (proposal) is changing an existing approved development which was already changed to RC from Industrial. He said towns fight different regulations all the time. Again he said this would be a huge impact to the town. He said this will cost the taxpayers and the town a lot of money. He said we have one of the better school systems for the amount of money that we put into it and if we get an influx of 3 to 4 bedrooms in 200 (plus) housing units that would be another school (needed). He said this is not a new development coming in it is one that is being changed from a current 55 and over to a low income or affordable housing development, from 63 units to 230 plus units. He said it is the responsibility of the town to make it more affordable for all those living here currently not just for those people moving in.

Robert Lanosa said that the impact to schools would be mind boggling. He said there are people here struggling on a day to day basis and this would put them over the top. He said he can see maybe taking some (low income housing) but not that much at one time as no town can absorb that many units at one time. He said he understands that everyone should have their chance of owning a house but this (proposal) is just too big.

Atty. Wise came forward and said he is not going to respond to Mr. Mazzeo's attempt to inject his client's mortgage with the bank and the condo documents into this discussion. He said he could guarantee that before this project is built his client will make sure that his obligations to the bank have been fully satisfied and will do the same thing with respect to any obligations he

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 5 of 7**

may have to the three existing owners. He also said that Mr. Gugliotti mentioned the fact that this should be treated differently because it is already approved for something else and in his opinion Section 8-30g shouldn't apply to a situation like this because this isn't a raw piece of land. Atty. Wise said the exact same situation existed in the Town of Oxford where they had a partially completed development like this that he believed started out as age-restricted and not sure if the property changed hands or not but came back and submitted an affordable housing plan. He said the town fought him but eventually they (developer/owner) won. Atty. Wise said there will be an impact to the schools but that is not one of the reasons that the act allows the (Commission) to deny a project. Atty. Wise read from the C.O.G. memo which said "in order to deny a proposed affordable housing development under the appeals process, Wolcott would have to prove that housing at the site would risk the health, safety, and welfare of the residents or public. Since any safety concerns at the site would have been addressed as part of the approval for age-restricted housing, it will be difficult for Wolcott to make an argument that the site is unsuitable for housing". Atty. Wise said certainly there is a concern regarding the (town's) budget but that is not one of the reasons that will sustain a denial of an affordable housing project under Section 8-30g. Mike Bokon said that he believes that on the Oxford project nobody was living in the development that was designed for 55 and over, the homes were not sold and that is why it was easier to go ahead (with the change). Keith Mahler said he believes there's enough of these projects around the state where they have had conversion of these units with occupants in there both in terms of the age-restriction being lifted. Mr. Mahler said you have to remember that we are here because this property was rezoned from industrial.

Lou Mazzeo said that the property was all industrial zoned and he owns two properties in front that are still industrial. He said that property was only changed to Restricted Commercial to allow an age-restricted 55 and over in there and it was given to him under a special permit.

At this time there were no more comments from the public or the Commission and the public hearing on application #13-482 and Chairman Mahoney closed the public hearing.

Upon **MOTION** by Cathe Sherman, seconded by Rich Delpier, it was unanimously voted to take a 5 minute recess at 7:40 p.m.

The meeting reconvened at 7:45 p.m.

REGULAR MEETING

At 7:45 p.m. Chairman Mahoney called the Regular Meeting to order. (Attendance was taken and it was the same as listed above under Public Hearing).

PUBLIC REQUESTS

Sharon and Lucien Pelletier came forward to say they are very upset about all that is going on (referring to the affordable housing project) as they wanted this to be their retirement place. Lucien Pelletier said that he agrees with the people that are backing them up and is hoping that things will be done the right way. Mr. Pelletier said he is not going to let this go and asked the Commission to do the right thing.

APPROVAL OF MINUTES

Upon **MOTION** by Cathe Sherman, seconded by Mike Bokon, it was unanimously voted to **APPROVE** the minutes from the 4/17/13 Public Hearing and Regular Meeting.

Chris Edquist abstained due to absence.

APPROVAL OF BILLS

There were no bills at this time.

CORRESPONDENCES

Chairman Mahoney said he received a letter from Sean Cleary dated 4/4/13 that he resigned from the Commission due to taking a job out of state.

SUBCOMMITTEE REPORTS

There were no Subcommittee Reports at this time.

OLD BUSINESS

1. **#12-478 Christine Nelson – Special Use Permit for B-3 a Non-Profit Donation Center at 36 Town Line Rd.**

Chairman Ray Mahoney said we are still waiting for Inland Wetlands approval on this application.

2. **#13-482 Liberty Wolcott LLC – Amendment to Zoning Regulations to permit Section 8-30g Affordable Housing Developments in the RC District.**

The public hearing on this application was closed tonight and Chairman Mahoney advised the members to read all their notes and will discuss this at the next meeting.

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND REGULAR MEETING
WEDNESDAY, MAY 1, 2013
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 7 of 7**

3. #13-484 Christopher Funk – Special Use Permit for a 30’ x 30’ detached garage at 26 Woodtick Rd.

Upon **MOTION** by Cathe Sherman, seconded by Rich Delpier, it was unanimously voted to **APPROVE** #13-484 Christopher Funk – Special Use Permit for a 30’ x 30’ detached garage at 26 Woodtick Rd.

NEW BUSINESS

There was no New Business at this time.

ZONING ENFORCEMENT OFFICER’S REPORT

ZEO said that the parking lot at John Gentile’s building has been paved but he has not come in for a permit to operate the business yet. He said the lines are still missing and the plantings (landscaping) still need to be completed. ZEO said the dance studio over on Wolcott Rd. is looking to relocate to Meriden Rd. He said he is checking into some zoning issues (Cote’s Café) where there are multiple trucks, trailers and tents on the property. He said he had a preliminary meeting with a company out of Massachusetts that is looking to put in a 9,000 sq. ft. retail building on Wolcott Rd. Mike Bokon asked about a dump truck and excavator on Badger Road that is always parked in the yard. ZEO said if they are working there it is o.k. but he will check into it. Mike Bokon asked about the house on Garrigus Court (that is being remodeled) and said it is a mess.

EXECUTIVE SESSION

There was no Executive Session at this time.

ADJOURNMENT

Upon **MOTION** by Cathe Sherman, seconded by Mike Bokon, it was unanimously voted to **ADJOURN** the Regular Meeting at 7:59 p.m.

APPROVED:

Ray Mahoney, Chairman
Planning & Zoning Commission

Edna Henderson, Recording Secretary
Planning & Zoning Commission

WOLCOTT LEGAL NOTICE
At its regular meeting on May 1, 2013, the Wolcott Planning & Zoning Commission took the following actions:
1. Approved #13-484 Christopher Funk – Special Use Permit for a 30’ x 30’ detached garage at 26 Woodtick Rd. Details of the above actions are on file in the Planning & Zoning Office at the Wolcott Town Hall, dated at Wolcott, CT, this 6th day of May 2013. Wolcott Planning & Zoning Commission
Ray Mahoney – Chairman
RA 5/7/2013

**PROPOSED AMENDMENTS TO THE WOLCOTT ZONING REGULATIONS
TO PERMIT SECTION 8-30g AFFORDABLE HOUSING DEVELOPMENTS**

The Applicant seeks the following amendments to the Zoning Regulations for the Town of Wolcott in order to allow for Section 8-30g Affordable Housing Developments in the RC District.

A. **SECTION 23 PERMITTED USES, Schedule A** is amended by adding the following new Use Line A-16 under Part A:

A-16 Conn. Gen. Stat. Section 8-30g Affordable Housing Developments in the RC District.

Said Use Line A-16 shall be permitted in the RC District, subject to approval of a Site Development Plan by the Planning and Zoning Commission in accordance with the provisions of Section 31 and any additional standards and conditions specified in Section 32.19.

B. **SECTION 32.19 AFFORDABLE HOUSING**

A. Definitions.

32.19.A.1 As used in this Section, the term "Affordable Housing Application" shall be as set forth in Connecticut General Statutes § 8-30g.

32.19.A.2 As used in this Section, the term "Affordable Housing Development" shall be as set forth in Connecticut General Statutes § 8-30g.

32.19.A.3 As used in this Section, the term "Affordable Unit" shall mean a dwelling unit in an Affordable Housing Development.

B. Applicable Zoning Districts.

32.19.B.1 Affordable Housing Developments shall be permitted in the following zoning districts:

a. Restricted Commercial RC District.

C. Affordable Housing Development Standards.

32.19.C.1 All Affordable Housing Developments must comply with C.G.S. § 8-30g and any regulations promulgated thereunder by the Commissioner of Economic and Community Development.

32.19.C.2 Dwelling Unit Density. Notwithstanding the provisions of Schedule B – Standards, the maximum density in an Affordable Housing Development shall be 15 dwelling units per acre up to a maximum of 250 dwelling units. For purposes of computing allowable density, the required lot area shall exclude the area of ponds, marshes and other designated Inland Wetlands as well as areas with a natural slope in excess of 30 percent.

32.19.C.3 Lot Area, Location and Shape. Each such Affordable Housing Development shall be located on a lot having a minimum area of 20 acres with a minimum frontage of 200 feet on Route 69, which lot shall also be of such shape that a square with 300 feet on each side will fit on the lot.

32.19.C.4 Access. Each Affordable Housing Development shall be provided with direct access to Route 69.

32.19.C.5 Setbacks. No building or other structure shall extend within less than 40 feet of any street line and 50 feet of any other perimeter property line, unless such other perimeter property line abuts property in the Industrial Zone, in which case such setback shall be 30 feet.

32.19.C.6 Units Per Building. No building shall contain more than 12 dwelling units.

32.19.C.7 Distance Between Buildings. The distance between any two buildings shall be not less than 15 feet. The Commission~~er~~ may reduce this separation requirement if closer spacing would benefit the design of the development.

32.19.C.8 Application. Notwithstanding any other provision of these Regulations, any proposed Affordable Housing Development shall be reviewed by the Commission only in connection with an Affordable Housing Application.

32.19.C.9 Application Requirements. An Affordable Housing Application shall require the following submissions:

a. An Application for Site Development Plan, together with all materials and information required by these Regulations for such application.

b. A Narrative describing the following:

- (i) Proposed total number of residential units;
- (ii) Proposed total number of affordable units and the affordability levels of the affordable units;
- (iii) Proposed method of water supply;
- (iv) Proposed method of sanitary waste disposal.

- c. Sample floor plans for each proposed unit style.
- d. A community lighting plan.
- e. A draft of any proposed zone text amendments required by the Application, as well as a Statement describing (a) the manner in which the Application does not meet the existing zoning regulations, and (b) if a new zoning district is proposed, why the existing zoning districts in the Regulations cannot be used for the Application.
- f. An Affordability Plan which meets the criteria stated in Connecticut General Statutes § 8-30g(b)(2) and Connecticut Agencies Regulations § 8-30g-7, as amended.
- g. Draft deeds, conditions of approval, restrictive covenants or lease provisions that will govern the affordable dwelling units.

D. Administration of Affordable Housing Developments.

32.19.D.1 Where Affordable Units are offered for sale, the Affordability Plan shall provide that the Applicant, or its designee, shall be responsible for ensuring that the requirements of the Affordability Plan are met for the initial sale of each unit, and shall be responsible for the payment of all expenses associated therewith.

32.19.D.2 The Commission may designate a person to review each subsequent transfer to ensure compliance with the requirements of the Affordability Plan.

32.19.D.3 Where Affordable Units are offered for rent, the Affordability Plan shall provide that the Applicant, or its designee, shall be responsible for ensuring that the requirements of the Affordability Plan are met for each rental of each unit, and shall be responsible for the payment of all expenses associated therewith.