

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING / PUBLIC HEARING  
JULY 28, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, DiDonna, Olvany, Sini, Jr., Voigt (arrive at 8:07 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

**GENERAL MEETING**

**Land Filling & Regrading Application #328, J. Baron Land Co., LLC, 465 Mansfield Avenue.**

Review and action on revised drainage and grading plans.

Attorney Jacqueline Kaufman said that the property owners and the neighbors have reached an agreement that every one is happy with. There have been slight modifications and improvements to the grading plan that the Planning & Zoning Commission had originally approved. The applicant's engineer Doug DiVesta is present in case there are any questions and he has consulted with the neighbor's engineer who is satisfied with the changes. Attorney Kaufman said that there is a detailed drainage maintenance plan that has been drafted and approved by the applicant and the neighbors. It more clearly defines the intent and purposes of the grading and the responsibility of the property owners at 465 Mansfield Avenue to maintain the drainage system so that stormwater will not adversely affect the neighbors. The drainage maintenance plans includes standards for maintenance.

Attorney Amy Zabetakis represented the neighboring property owners at 459 Mansfield Avenue and she said that she has reviewed the document and the agreements and everything is acceptable to the neighbors.

Commission members said that they were pleased that the neighbors and the applicant had been able to resolve all of the issues. The following motion was made: That the Planning & Zoning Commission authorize the amendments to the approved grading plan in accordance with the submitted request. The motion was made by Mr. DiDonna, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

*Deliberation and possible decision on the following:*

**Special Permit Application #109-E, The Depot, 25 Heights Road.** Request to install permanent lights and modify an existing sport court, and perform related site development activities.

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The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Commission members discussed the draft resolution and agreed upon several clarifications and modifications. The following motion was made: That the Planning & Zoning Commission adopt the following revised resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. Sini. All voted in favor except Mr. Voigt, who abstained because he had not been present at the public hearing. Mr. Olvany said that he had read all the materials and was familiar with the application and felt comfortable voting on the request. The motion passed by a vote of 5-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 28, 2015**

Application Number: Special Permit Application #109-E

Street Address: 25 Heights Road  
Assessor's Map #44

Name and Address of Applicant &  
Applicant's Representative: Janice Marzano  
Program Director  
The Depot Youth Center  
25 Heights Road  
Darien, CT 06820

Name and Address of  
Property Owner: State of CT DOT—Office of Rails  
50 Union Ave, 3<sup>rd</sup> Floor West  
New Haven, CT 06519

Activity Being Applied For: Request to install permanent lights and modify an existing sport court, and perform related site development activities.

Property Location: The subject property is located on the south side of Heights Road, approximately 100 feet west of its intersection with Noroton Avenue.

Zone: Parking Residential (PR) Zone

Date of Public Hearing: July 14, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices  
Dates: July 3 & July 11, 2015

Newspaper: Darien News (July 3)  
Stamford Advocate (July 11)

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Date of Action: July 28, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
August 7, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 405b, 560, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted sketch, and the statements of the property owners/applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to install permanent lights and modify an existing sport court at the Depot, and perform related site development activities. There are two light poles proposed, each twenty feet high. The lights will allow youth to be outside after dark rather than in the Depot building. It will also eliminate the use of temporary, portable lights, which are sometimes used.
2. At the public hearing, it was acknowledged that the Depot is uniquely situated on CT DOT property adjacent to the train tracks, without any residential uses nearby. It is across the street from the Noroton Heights commercial area, and below the grade of Noroton Avenue to the east. Trees and other landscaping will minimize visual impacts of the lights.
3. It was suggested that automatic timers be used. In response to a question from Commission members, the applicant said that she would accept a reasonable restriction on the hours of usage of the lights. The Commission agrees that even though there are no nearby residences, and the location of the light poles is obscured by the grades in the area, hour limits on the lights are appropriate.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.

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6. The location and nature of the proposed use are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
8. With the specific conditions outlined herein, the proposal conforms to the standards for approval as specified in Section 1005(a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE, BE IT RESOLVED that Special Permit Application #109-E is hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Installation of the two light poles with two LED lights each on them, and the modifications to the existing sports court shall be in accordance with the sketch submitted to the Commission showing the location of two two-headed lamp posts.
- B. The proposed sport court lighting meets the requirements in Section 405b of the Zoning Regulations and is hereby approved. The top of the light fixture shall not be higher than 20 feet above the level of the sport court. The bulbs of the lights shall not be visible from surrounding properties.
- C. In order to minimize potential impacts to neighbors, the owner shall install a timer to ensure the lights are not accidentally left on overnight. The lights shall be set on an automatic timer to turn off at 11 pm.
- D. In evaluating this application, the Planning & Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Special Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. An Electrical Permit from the Darien Building Department is required.
- F. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action by (July 28, 2016). This may be extended as per Section 1009.

All provisions and details of the sketch shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Within sixty days of this action, and prior to the issuance of an Electrical Permit, a Special Permit form must be filed in the Darien Land Records or this approval shall become null and void.

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Chairman Cameron read the following agenda item:

**Approval of Minutes**

*June 9, 2015 General Meeting/Public Hearing*

Clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. DiDonna and seconded by Mr. Voigt. All voted in favor except Mr. Sini and Mr. Cunningham, who abstained because they had not been present at the meeting. The motion was approved by a vote of 4-0-2.

*June 23, 2015 General Meeting/Public Hearing*

Several clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Voigt and seconded by Mr. Olvany. All voted in favor except Mr. DiDonna who abstained because he had not been present at the meeting. The minutes were adopted by a vote of 5-0-1.

Chairman Cameron opened the Public Hearing and read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Coastal Site Plan Review #302-A, Land Filling & Regrading Application #352, David & Rhonda Sherwood, 245 Long Neck Point Road.** Proposing to construct a pool, spa, patio, and pool cabana; install associated stormwater management; and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 2,600 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #13-2 in the R-1 Zone.

In order to avoid a potential conflict of interest, Mr. Sini departed the meeting room.

Attorney Bruce Hill represented the applicant and asked that this item to be moved to slightly later in the meeting. Commission members agreed to accommodate his request.

Chairman Cameron read the following agenda item:

**Amendment of Special Permit Application #47-C(2), Darien Community Association, 274 Middlesex Road.** Proposal to amend its existing Special Permit to reflect an updated list of programs and activities, and to modify hours of operation. The subject property is situated on the south side of Middlesex Road, approximately 750 feet northeast of its intersection with Libby Lane and is shown on Assessor's Map #20 as Lot #42, in the R-1 Zone.

Mr. Sini returned to the meeting.

Attorney Bruce Hill represented the applicant and explained that the Darien Community Association (DCA) is a Special Permit use within a Residential Zone. In 2013, the Planning & Zoning Commission had approved requested changes to the parking lot and lighting and bird sanctuary area. Now in 2015, the DCA asks the Planning & Zoning Commission to consider

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updating the conditions of approval regarding the activities and hours of operation. Specifically, DCA is asking to have slightly later hours allowed on New Year's Eve and on three Sunday evenings that are holiday weekends. He said that the DCA is very aware that they are located in the midst of a Residential Zone and therefore they have strict contractual limitations on user of the DCA facilities. They try to make sure that the neighbors' concerns, and the Planning & Zoning Commission's approvals, are respected. Commission members discussed the requested extended hours and how limited they are. Mr. Cunningham noted that this request involves only a few days a year.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #302-A, Land Filling & Regrading Application #352, David & Rhonda Sherwood, 245 Long Neck Point Road.** Proposing to construct a pool, spa, patio, and pool cabana; install associated stormwater management; and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 2,600 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #13-2 in the R-1 Zone.

In order to avoid a potential conflict of interest, Mr. Sini departed the meeting room.

Attorney Bruce Hill represented the applicants and said that the public hearing regarding this matter was started on June 9, 2015, at which time the Coastal Area Management Act was discussed, as well as the original subdivision. The Planning & Zoning Commission then discussed the Coastal Area Management (CAM) aspects of the project and the information that had been submitted. He said that Zoning Enforcement Officer (ZEO) David Keating raised an issue regarding the rear yard setback. The public hearing was continued to July 7, 2015 so that the Planning & Zoning Commission could seek advice from the Town attorney. Attorney Hill said that on July 7, 2015, the public hearing was continued and ZEO Keating raised issues regarding what he thought the intent of the Planning & Zoning Commission was when they approved the subdivision back in 1975 and having some sort of enhanced setback requirements that would prohibit the proposed pool and cabana. A continuation was granted so that the public hearing could be recessed and resumed on July 28, 2015. Attorney Hill said that at 4:30 P.M. on July 28, 2015, he received ZEO Keating's memorandum regarding the Open Space requirements and the setbacks.

Chairman Cameron said that she has reviewed the 1975 map that was approved by the Planning & Zoning Commission and filed in the Darien Land Records in 1976. She said that it clearly shows the buildable area of each of the parcels, including the subject property. The buildable area does not include any of the land within 100 feet of Mean High Tide and that area is coincidental with what is now the 100 foot critical area established by the CAM program. She said she also reviewed the September 2014 minutes where the Planning & Zoning Commission had approved the construction of a replacement house at this 245 Long Neck Point Road property and noted that there was no

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activity proposed within the 100 foot area adjacent to Mean High Water. She said that she reviewed Mr. Keating's memo regarding the Open Space.

Attorney Hill said that the 1975 subdivision file and minutes about the review process make no mention of an enhanced or enlarged setback area. It does note that the Open Space on the west side of Long Neck Point Road will be commonly owned by the eight owners of the eight building lots. The Open Space on the east side of Long Neck Point Road will be owned by the individual adjacent property owners rather than a collective group of owners. Attorney Hill said that the minutes mention that the Open Space layout is a solution to a mathematical problem, but there is no discussion about enhanced setback requirements. Ms. Cameron said that there is a 1980 letter from an architect working on developing one of the properties and it specifically refers to the buildable area on the lots. Attorney Hill said that the Open Space parcels adjacent to the properties on the east side of the road are not uniform in size, just a mathematical solution to the Open Space requirement. He said in 1975 the Planning & Zoning Commission made it clear that the owners of the adjacent building lots would also own the adjacent Open Space. He said that the CAM Regulations did not come into play until 1979, therefore there is no consideration given in the 1975 review of the subdivision to any CAM requirements. He said that when the building lots are conveyed from one property owner to another, they are conveyed as a unified parcel and that no property owner can change the Open Space declaration, which is filed in the Land Records. He said that consolidation of the building lot and the Open Space parcel will have no impact on the use of or the restrictions applying to the Open Space area.

Commission members noted that the approved subdivision map refers to the 100 foot regulated area as noted in Section 486.2 of the Regulations. In the discussion that followed, Attorney Hill and the Commission members agreed that it would be appropriate to include in the record of the current application, the 1975 Subdivision Regulations and the 1975 Zoning Regulations. Attorney Hill emphasized that the proposed pool and pool house construction would not have any adverse impact on coastal resources. Ms. Cameron noted that Mr. Voigt had made mention at the last meeting about the view from the water toward the site and that the pool house structure would impact the view. Attorney Hill said that the pool house would only be viewed against the backdrop of a much larger house. Ms. Cameron noted that the 1980 letter from the architect regarding the buildable area should also be entered into the file.

Commission members reviewed Map #3924, which was filed in 1976 to reflect the 1975 approval by the Commission of the subdivision. Attorney Hill said that what the Commission record includes is the 1975 approval and the minutes of that time and the letter from Town Planner Hayes which was a cover letter of the Commission's approval. Attorney Hill said that now the CAM Act controls the regulated area within 100 feet of Mean High Water. He said that it is not appropriate for the Commission to try to deduce the intent of the 1975 Commission's action. The current Commission must use the printed word and what the map says to reflect the actual action of the Commission was in 1975. In response to questions, he said that the current CAM Regulation overrides the regulated area of 1975. Section 486 of the Zoning Regulations was in effect prior to the 1979 CAM Act, which has more authority because it is a State Statute. Attorney Hill cautioned the Commission not to disregard the current CAM statute in lieu of the old Regulation.

Ms. Cameron said that the subdivision map and specifications cannot be changed without the approval of the Planning & Zoning Commission. The filed map shows the buildable area not

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including any land within 100 feet of Mean High Water, and that is where the applicant proposes to build the pool and the pool house/cabana. Attorney Hill said that the only change resulting from the merger of the Open Space with the building lot would be that the solid line shown on the map becomes a dash line between the portion of the Sherwood property that is subject to the Open Space declaration and the rest of their property. He said that the term “buildable area” as shown on the Map #3924 is not defined by the Regulations. Mr. Olvany said that the buildable area shows the portion of the property that can be developed with structures, and conversely, the portion of land where no building is to take place. Construction outside the buildable area is not allowed. He asked if it would be possible to add to the record the approved plans for the construction of houses on lots #7 and #8 because those properties have very limited buildable area. Attorney Hill said he had no opposition to supplementing the record with that information.

Director of Planning Jeremy Ginsberg said that he received an email from Kristal Kallenberg of the CT Department of Energy & Environmental Protection (DEEP). Ms. Kallenberg indicated that the DEEP found no inconsistencies of the project with the CAM policies. Mr. Ginsberg also noted that the revised landscaping plan had been incorporated into the file and Mr. Keating’s memorandum regarding Open Space has been incorporated into the file as well as being sent to Attorney Hill. He said that the Open Space requirement in 1975 was that at least 10% of the total land area needed to be set aside as Open Space. This required that 0.996 acres of land be designated as Open Space. The combined area of all the Open Space parcels shown on the approved map is compliant with that requirement. If the Open Space parcel adjacent to Lot #2 is eliminated as a separate Open Space parcel, then it would not be compliant with the Open Space requirement. He said that one of the key issues for the Commission to determine is where the setback requirement should be measured from – Long Island Sound or from the line that divides the building lot from the Open Space parcel.

Attorney Amy Zabetakis said that she represents the Long Neck Point Homeowners Association that owns the common Open Space on the west side of Long Neck Point Road. She said that her partner Attorney Joseph Rucci had represented William Edgerton in 1975 during the review process of the original subdivision. The approval of the Commission was clear that the Open Space on the west side of the project would be owned in common and that the individual Open Space parcels on the east side of Long Neck Point Road would be owned by the individual adjacent land owner. She said that Mr. Edgerton owned Lot #1 and had previously considered an amendment of the Open Space. She said that her files that she reviewed indicated that he did not go through with the amendment of the Open Space but did not indicate why. She said that her understanding is that the homeowners within the development all recognize that the Open Space parcels on the east side of Long Neck Point Road are owned and maintained by the individual homeowners of the adjacent building lot.

There were no other comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

**Continuation of Public Hearing regarding Land Filling & Regrading Application #356, LTB Properties, LLC, 74 Brookside Road.** Proposing to fill and regrade in association with the

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construction of a replacement residence and new driveway and to perform related site development activities. The subject property is situated on the east side of Brookside Road, approximately 100 feet north of its intersection with Bates Farm Lane and is shown on Assessor's Map #14 as Lot #26, in the R-1/2 Zone.

Mr. Sini returned to the meeting.

Scott Church represented the property owners and explained that they propose to knock down the existing house and build a new, replacement house. A new driveway will be constructed on the south side of the property because there is an existing driveway on the north side of the property that is shared with the neighbor at #78. The new driveway will require some regrading to meet the current driveway safety standards.

Mr. Ginsberg said that the Zoning Board of Appeals (ZBA) had granted variances per Calendar #35-2015 regarding the lot width. Mr. Church said that the detailed drainage report had been submitted. Mr. Ginsberg said that the other departments have comments and noted that the normal sewer permits will be needed and that a demolition permit will be needed for the old house. He said that Mr. Church wants to proceed with the demolition of the existing old structure even before the Commission acts on the current applicant regarding regrading for the new driveway. Mr. Ginsberg said that the old house is more than 50 years old but is not historically significant.

There were no comments from the public. Commission members felt that it would be acceptable for the applicant to proceed with demolition of the existing house because it is not dependent on the proposed regrading for the driveway. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

**Land Filling, Excavation, & Regrading Application #360, Sumeet Uppal & Diksha Bajaj, 33 Hollow Tree Ridge Road.** Proposal to obtain "after the fact" permits for construction of patios, retaining walls, and associated cutting, filling and regrading, and to perform related site development activities. The subject property is situated on the west side of Hollow Tree Ridge Road, approximately 900 feet north of its intersection with Boston Post Road and is shown on Assessor's Map #47 as Lot #127, in the R-1/3 Zone.

Tessa Jucaite, Professional Engineer, represented the property owners and explained that much of the work has already been started. This work has involved cutting of trees and regrading of portions of the rear property to make flat areas and access stairways. Some corrective work actions are necessary to address the drainage and the unstable slopes. Ms. Cameron said that many of the steps are not level or even and they need to have a consistent rise. Ms. Jucaite said that the access to the terrace levels in the backyard is not a formal access like the front yard, it is more rough and nature-like. Ms. Cameron said that as it is, the stairway access in the rear is unsafe and needs to be corrected. Ms. Jucaite agreed that some of the stairways in the back need safety railings. Ms. Cameron said that some regrading work appears to have taken place in the front yard as well. She understands that addressing stormwater drainage and a detailed plan of the stormwater drainage is

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only part of the solution and that more complete set of plans is needed to show all of the details of the work that has started to take place. She said that all of the safety and drainage and soil stabilization needs to be addressed. Mr. Olvany said that the access in the rear needs to allow people to safely get from the house down to the usable flat areas that had been created.

Mrs. Bajaj apologized to the Commission for having the work take place before permits were obtained. She said the work has been done by family members and at first it just involved removing some unsafe trees and then clearing some bushes around those trees. She noted that the work was not professionally done and now needs to be fixed to be safe for her and the family. She said that not much usable area has been created.

Mr. Sini said that the applicant needs to work with the staff to: more clearly illustrate all the existing conditions; and proposed work; and corrective safety measures that need to be implemented. Mrs. Bajaj said that she did not understand that the stairs needed to be shown on the plans. Ms. Cameron said that complete sets of plans need to be submitted for the continuation of the public hearing in September. The revised drawings and plans needs to be submitted with ample time for review prior to the meeting. She questioned whether the debris and cut trees down on the lower portions of the property are still on this site or whether they have spilled over on to the neighboring properties. She was told that the cut trees are still on the applicant's property. Mr. Ginsberg said that the next available meeting of the Commission will be on September 1, 2015. He asked if the applicant was willing to grant an extension so that the Commission can continue the hearing at the next available meeting. Ms. Jucaite agreed to the extension so that the hearing can be continued in September.

Chairman Cameron read the following agenda item:

**Amendment of Land Filling & Regrading Application #53-D, Darien Athletic Foundation, Darien High School, 80 High School Lane.** Proposing to modify previous approval to allow construction of bleachers at the west side of the middle athletic field in the "oval" and to perform related site development activities. The subject property is situated on the west side of High School Lane, approximately 1,100 feet west of its intersection with Middlesex Road and is shown on Assessor's Map #9 as Lot #80 & #81, in the R-2 Zone.

Mr. Sini wanted to avoid any perception of a conflict of interest and therefore departed the meeting.

Joseph Canas, Professional Engineer from Tighe & Bond, represented the Darien Athletic Foundation (DAF). He explained that in Spring 2014 when the overall turf field project was bring approved, the Commission approved the plan to install elevated bleachers in between two of the fields in the front oval area to the south of the school building. In that case, there were two sections of bleachers, each approximately 21 feet in length. Each set of bleachers would have three tiers. Rather than doing the aluminum bleachers, the DAF is now proposing to amend the plan to include stone tiers on a brick base. Mr. Canas said that the proposed tiers would accommodate the change in ground elevation and each would have three levels. A slightly different regrading plan is necessary for the stone tiers compared to the previously approved bleachers. He said that each of the stone tiers would be about 29 feet in length. There would be three tiers or levels of flat areas. There would be six stairs from the bottom ground level to the top tier. Spectators could bring their own collapsible chairs to place on the flat tiers or people could sit directly on the edge of each tier.

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Ms. Cameron said that she visited the site and noted that it is a very well maintained construction site. There were several questions from the Commission members regarding clarification of the drawings and plans.

Mr. Ginsberg said that the land filling and regrading aspect of the project is technically a Special Permit from the Commission. Part of a Special Permit application is usually the submission of a traffic study. In this case, he wanted the Commission to decide whether a traffic study is needed. He noted that concerns by a neighbor, Mr. Michalski, have been raised regarding the potential increase in the activity or number of spectators due to the proposed amendment. Commission members had received Mr. Michalski's comments and noted that the pictures that he included were from May of 2014 and do not seem to be relevant to the issue at present. Commission members discussed the situation and concluded that a traffic study is not necessary or appropriate regarding this proposed amendment of the regrading of the land to accommodate the proposed tiers.

There were no questions or comments from the public at the meeting. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

Chairman Cameron read the following agenda item:

Continuation of the following matter:

By Order dated November 19, 2014 in the matter of *Christopher & Margaret Stefanoni v. The Darien Planning and Zoning Commission* – Docket No.: HHB-CV-11-5015368S (the “Appeal”), and the related case of *Gregory v. Darien Planning and Zoning Commission* Docket No.: CV-13-6023798S Judge Henry Cohn remanded the matter back to the Darien Planning & Zoning Commission for an amendment to the Commission's October 29, 2013 resolution to specify an approved number of units or a range of numbers of units, based on the record. The legal notice for the original application read as follows:

**Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street.** Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities. The subject property is located on the east side of Hoyt Street approximately 100 feet south of its intersection with Echo Drive, and is shown on Assessor's Map #27 as Lot #168-1, within the R-1/3 zone.  
*PREVIOUS HEARINGS HELD ON 4/7, 4/21, 5/26, 6/2.*

Mr. Olvany wanted to avoid any perception of a conflict of interest and departed the meeting. Since Mr. Sini had already left the meeting, this left four Commission members present (Ms. Cameron, Mr. DiDonna, Mr. Cunningham and Mr. Voigt).

Mr. Ginsberg noted that he had distributed to the Commission the two sets of comments from the Fire Marshal and a copy of the old approval and a list of the affordable housing units and market rate units that would need to be created depending on the total number of units in the project and a very rough first draft that put into writing some of the points of discussion. Mr. Cunningham said that traffic safety is an additional item of concern. Ms. Cameron said that children walking along

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Hoyt Street are a concern to everyone including the school. She said that nothing has been submitted to the Commission regarding the economic viability of the project depending on the total number of units in the development. Mr. Ginsberg said that under Section 8-30g of Statutes, at least 30% of the units within the development must be affordable, meaning the residents must have a maximum income of 80% of less compared to the State median income. Of those affordable housing units that are created, at least half of those are limited to people with a maximum of 60% or less of that State median income. He said that the judge had allowed the Commission to provide a range of possible units. Commission members discussed the fact that some units would be affordable and some would be at market rate, but all the units need to be comparable in quality and they would need to be a very small difference between the size of affordable and market rate units. They felt that the difference could not exceed 4.6% of the floor area. Commission members asked Mr. Ginsberg to continue to draft findings and conclusions and to distribute in August so that action can be taken in September.

Chairman Cameron asked Mrs. Stefanoni if she had any comments or input. Mrs. Stefanoni opted not to have any input.

A woman from 63 Hoyt Street said that she lives adjacent to the project and wanted to know about the viability issue. Mr. Ginsberg said that the court did not make a ruling one way or the other about the economic viability of the project. He said that economic viability comes into play when the Commission denies or modifies a submitted application.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 9:55P.M.

Respectfully submitted,

David J. Keating  
Planning & Zoning Assistant Director

*07.28.2015min*