

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 13, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, DiDonna, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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

PUBLIC HEARING

Continuation of Public Hearing regarding Land Filling & Regrading Application #323, DaCunha Builders, LLC, 8 Stanley Road. Proposing to perform site grading associated with the construction of a new single-family residence; and to perform related site development activities. The subject property is located on the east side of Stanley Road, at its north intersection with Devon Road, and is shown on Assessor's Map #24 as Lot #81 in the R-1/3 Zone. *PUBLIC HEARING OPENED APRIL 22, 2014. DEADLINE TO CLOSE PUBLIC HEARING IS MAY 27, 2014, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Professional Engineer Doug DiVesta represented the property owner and described the changes that had been made in plan since the last session of the public hearing on this matter. The changes were illustrated in red. The house under construction had been approved by staff, but limited the filling and regrading to within 25 feet of the building and not within 15 feet of any property line. The changes to the plan include: new retaining walls and some back filling at the location of the old driveway; new walls on the north side of the house to create terraces; adding yard drains; labeling the two foot diameter catch basin in the driveway; including Belgium block curbing at the driveway to contain the water; adding a third row of infiltrators at the east side of the property to accommodate more storm water runoff; and new contour lines. All of these changes are shown on the map.

Ms. Cameron said that from reading the engineering report it appears that the first 3 ½ inches of rain water will be captured within the storm drainage system before there will be any outflow from the drainage system. Mr. DiVesta said it is not as simple as that because they are comparing pre-development runoff to post-development runoff with impervious areas such as the house, porches, decks, terraces and the driveway. The pre-development calculations are based upon everything being lawn (even though there was a house and driveway on site before the development started). Some of the rain water from the first few inches of rain will be infiltrated into the ground and some will be held in storage. After about six hours of rain the infiltrators will be saturated and then there will be some outflow. The outflow after development will never exceed the runoff from the site that would have occurred before development. Mr. DiVesta said that approximately 1,300 cubic feet of storage would be necessary for a 50 year storm. The revised plan now includes 2,500 cubic feet of storage volume. This is more than is necessary.

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Ms. Cameron said that flooding to the neighbors would appear to then come from other sites, not from this property. Mr. DiVesta concurred. Ms. Cameron said that on page 2 of the report, it incorrectly indicates that the total land area is 0.508 acres and that only 15.97% of that has been covered with impervious area. Mr. DiVesta said that apparently the computer program appears to have added up the acreage of the land as noted in the pre-development category with the acreage of the post-development category.

Mr. DiVesta said that the low point of the site is in the southeast corner and that is where all of the surface runoff and overflow runoff from the infiltrators will eventually go. The proposal is to extend the retaining walls along the south, north and easterly property lines and leave the southeast corner open and unobstructed. He said that they will repaint the wall on the west side (on Stanley Road) and raise it. This will ensure that the roof and driveway runoff will be directed to the infiltrators. The lawn will drain to the south and southeast and after absorption of some of the rainfall, the excess water would drain to the southeast and towards Devon Road the way it always has. The retaining walls will help with the grading of the site and to keep the fill on the property so that none of that is able to erode towards the neighbors. Mr. DiVesta said that the recent rainstorm showed that the closest official measuring station, which is in Westchester, indicated 2.5 inches of rain. He said that locally it could have been more or less rain but that is the measurement from the nearest official measurement station. He said that the house that is under construction does not have any gutters and that the site was able to absorb much of the rain water in that recent storm.

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. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

At about 8:25 p.m., Chairman Cameron then read the following agenda item:

GENERAL MEETING

Public Comment Session—first meeting of each month

Opportunity for the general public to present comments to the Commission on topics or items which are not pending applications.

Ms. Cameron said that there will be a meeting on Thursday, May 22 regarding the AT&T tower proposed at the Ox Ridge Hunt Club site. Mr. Ginsberg said that Connecticut Siting Council has the authority regarding the proposed tower and that there will be a time for public comment during the meeting. It was decided that the Commission will not take any comments from the public regarding the tower at this time. Hopefully many of the questions that the public have will be addressed at the May 22 meeting.

There were no comments from the public regarding other matters.

Chairman Cameron read the following agenda item:

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Amendment of Flood Damage Prevention Application #254-A/Amendment of Site Plan, Darien Junior Sailing, Weed Beach, 155 Nearwater Lane.

Request to install temporary trailer and storage unit for summer 2014.

Jennifer Burgess said that their project was approved by the Planning & Zoning Commission and they are currently in the process of raising funds to build the structure and make improvements. They want permission for a temporary storage hut and a temporary office trailer to serve as the facilities for the summer of 2014. The hut and storage and other facilities will be within the 22' by 50' area designed for the building. She wants permission to install the temporary facilities soon and noted that they will be removed around Labor Day of 2014. There was some discussion about what would happen in the event of a hurricane or severe storm. Ms. Burgess said that the owners of the trailers would want to keep it out of harm's way, so they would come and move it if a storm was forecast. The Commission members noted that it would be necessary to provide proper insurance and flood controls and/or strapping down of the temporary structures to make sure that they do not become hazards to any other property owners in the area. The following motion was made: With the requirements that proper insurance and flood controls and strapping down of these structures or that they be removed from the site or from harm's way as the conditions of the approval, the Planning & Zoning Commission hereby approves the temporary office trailer and temporary storage hut for the boating season of 2014 as requested. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

At about 8:35 p.m., Chairman Cameron read the following agenda item:

Informal discussion regarding Glassmeyer, former Knobel brothers property on the corner of Locust Hill Road and Settler's Trail.

Robert Maslan represented the property owner and explained that a previous informal discussion was conducted in early 2014. No formal application has been submitted yet and he thanked the Commission for discussing the eventual use of the property again. He said that he has talked with staff, and Attorney Maslan is in the process of drafting a proposed Overlay Zone that would create housing for "empty nesters". He submitted a narrative with demographic information and he said that nothing in the Regulations currently provides for empty nester housing. One of his criteria in the Overlay Zone would be that the site have at least two acres of land and be served by public sewers and water. Robert Cardello, Architect, explained that the thinking is to develop a European village type setting around a courtyard. There would be two units in the main building and four cottage style buildings around the perimeter of the court yard. There would be a total of six new dwellings on the site plus one old house on the corner near the intersection of the streets. Ms. Cameron asked about the orange ribbons on the trees and why they have been placed there. Mrs. Glassmeyer said that the trees have been marked by Michael Crotta, an arborist. Some of the trees need to be protected and preserved while other trees need to be removed.

It was noted that there would be seven units on a tract of land that contains approximately three acres. Mr. Maslan said that although it is just above three acres in size, in order to subdivide the property they would need to set aside at least 10% of the land as open space and that acreage will not count towards the one acre requirement for any individual lot. If they were to subdivide the property, they would only get two building lots. Mr. Sini asked about the creation of affordable housing and whether the affordable housing would be created on site. Mr. Ginsberg said that there had been some discussion

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about that but no conclusion had been reached. He said that it could only be off site if specific details were known and acceptable to the Commission. Ms. Cameron said that she was not interested in any payments in lieu of affordable housing, she wants to see the affordable housing units actually created. Mr. Sini said that this site might be suitable for senior housing due to its closeness to downtown business area (rather than being in a remote portion of town). Mrs. Glassmeyer said the housing would be age-restricted. Mr. Cardello said that the housing units would have approximately 2,500 square feet and would generally be 3 bedrooms and 3 bathrooms. Mr. Maslan said that one of his criteria would be that the property would have to be in the R-1 Zone and persons 62 years or older and at least 130,000 square feet of land area and a maximum of 2 stories in height, rather than 2.5, and a maximum building coverage of 15% instead of 20% that is normally allowed in the 1 acre zone. He said that the use would only be by Special Permit granted by the Planning & Zoning Commission, thus the Special Permit controls and findings would be applicable. The units could be owned by or rented to persons that qualify. He said that a conservation easement could be created to permanently protect some of the land near the neighbors, but separate open space parcels would not be able to be created because they would affect the density calculations. He said that part of the thinking is to have the master bedroom on the ground floor and to have the two guest bedrooms on the upper floor.

Ms. Cameron said that she likes the courtyard effect and the town needs some sort of housing for empty nesters but she feels that seven units on this three acre parcel is too dense. Other Commission members generally agreed with her. No conclusions were reached and no actions were taken by the Commission.

At about 9:05 p.m., Chairman Cameron then read the following agenda item:

Update and discussion re: recent informal items that have come before the Commission.
(ie, Kensett; Glassmeyer development Settler's Trail/Locust Hill Rd; Parklands Drive)

Mr. Ginsberg said that Kensett developers have applied to the Planning & Zoning Commission for an amendment of the Zoning Map and a public hearing is scheduled for May 27, 2014.

He also noted that the Parklands office site has been the subject of some informal discussion for an assisted living facility. He has received no comments or response from the Commission member regarding the preliminary discussion that was held. Commission members felt that on-site parking was probably not sufficient as part of their original proposal. Another comment indicated that it is one thing to re-use an existing building for assisted living but in this case, they would be tripling the size of the building.

Chairman Cameron read the following agenda item:

Ox Ridge Hunt Club, 516 Middlesex Road, telecommunications tower referral.

Discussion of proposal by New Cingular Wireless PCS, LLC ("AT&T") to construct a wireless telecommunications tower facility at the Ox Ridge Hunt Club, 512 Middlesex Road. The proposed facility, designed as a silo with related equipment, is proposed in the southwestern section of the parcel adjacent to the indoor riding arena and is proposed to extend to an overall height of 120' above grade. The proposal requires review and action by the CT Siting Council.

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Commission members agreed that they would postpone discussion on this matter until after the public information session with AT&T will be conducted on Thursday, May 22. The Commission must respond to the Connecticut Siting Council with any comments by June 27, 2014. Commission members then asked Mr. Ginsberg to arrange a site visit. There were some technology issues that should be addressed regarding the type of equipment to be used and where it can be and should be placed.

At about 9:10 p.m., Chairman Cameron read the following agenda item:

2014-2016 Town Plan of Conservation & Development.

Commission discussion regarding use of consultants for this project.

Commission members said that they were very impressed with the presentation by Mr. Chalder of Planimetrics. Mr. Ginsberg noted that there are several options for the Commission to discuss and directions for the Commission to take. Mr. Olvany said it would be important for someone like Mr. Chalder to coordinate the other special subcontractors, if there are to be any. Mr. Sini said that the RTM Planning & Zoning and Housing Committee may want to add input. Ms. Cameron said that she looked at New Canaan's website and felt that was a very helpful thing to provide information to the public. She said that the Planning & Zoning and Housing Committee wants to have a liaison from various RTM Committees to work with the Planning & Zoning Commission on the Plan.

Chairman Cameron read the following agenda item:

Discussion, deliberation and possible decisions on the following three applications:

Special Permit Application #276-A, PB Architects, LLC, 110 Boston Post Road. Proposing to establish an architect/home improvement contractor's office within a 600 square foot space in the existing building at 110 Boston Post Road. *HEARING CLOSED: 4/22/2014. DECISION DEADLINE: 6/26/2014.*

The draft resolution was reviewed and discussed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the Special Permit subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. DiDonna. All members voted in favor except Mr. Voigt who abstained because he had not attended the public hearing on this matter. The motion passed by a vote of 4-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2014**

Application Number: Special Permit Application #276-A

Street Address: 110 Boston Post Road
Assessor's Map #32 Lot #4-#6

Name and Address of Property Owner: One Ten Post Road Partners, LLC.
And Applicant: PO Box 1143

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Darien, CT 06820

Name and Address of
and Applicant's Representative: Amy S. Zabetakis, Esq.
Rucci Law Group, LLC
19 Old Kings Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to establish an architect/home improvement contractor's office within a 600 square foot space in the existing building at 110 Boston Post Road.

Property Location: The subject property is on the south side of Boston Post Road approximately 750 feet west of the Norwalk City Line.

Zone: SB-E

Date of Public Hearing: April 22, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 11 & 18, 2014

Newspaper: Darien News

Date of Action: May 13, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: May 23, 2014

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 670 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 application materials, and the statements of the 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. This application seeks a Special Permit to establish an architect/home improvement contractor's office within a 600 square foot space in the existing building at 110 Boston Post Road. No changes are proposed to the exterior of the building, other than a proposed sign, and the potential storage of a small trailer behind the building. The architect/home improvement

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contractor is proposing to locate in the space formerly used by Drivers Unlimited in the rear of the building. A majority of the business will be done off site.

2. The architect's office will be in a 600 square foot space accessible only from the back of the building. The architect has a Home Improvement Contractor's license from the State of Connecticut.
3. At the public hearing, the applicant's representative explained how the business should be considered by the Commission as a Principal Use requiring a Special Permit under Section 674e of the Zoning Regulations, a "Home improvement contractors, home improvement suppliers and other similar service contractors."
4. The Service Business East Zone allows Home improvement contractors, home improvement suppliers and other similar service contractors via Special Permit pursuant to section 674e of the Darien Zoning Regulations.
5. It was represented in the application materials that the proposed architect's office is expected to have two employees on-site. This is the same number as were on-site for the previous use, Drivers Unlimited. The trailer, when stored on-site, will also occupy a parking space behind the building. The Commission believes that due to the nature of the use, and the small space of 600 square feet to be occupied, that there will be no traffic or parking issues. The area behind the building is generally used for parking for tenants in the rear of the building. The parking spaces in the front of the building are generally for Post Modern Home, the use in the front of the building.
6. 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.
7. The location and nature of the proposed use, the size and height of the building 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.
8. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
9. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
10. 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.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #276-A is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission finds that the proposed use as described by the applicant is considered a “Home improvement contractor, home improvement supplier and other similar service contractor”. This use is allowed in the Service Business East Zone by Special Permit. The proposed tenant shall be in conformance with the submitted application materials and the representations made by the applicant at the public hearing. The Commission is approving the specific use as presented. The Commission is not approving a general office establishment.
- B. One trailer is allowed on-site, and if on-site, it must be parked behind the building.
- C. Because of the fact that all of the proposed work is interior work, and there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Sections 888a(3) and 888a(4).
- D. In evaluating this application, the Planning and 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 approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- 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 (May 13, 2015). This may be extended as per Section 1009.

All provisions and details of the application 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. A Special Permit shall be filed in the Darien Land Records within 60 days of this approval.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #299, Flood Damage Prevention Application #29-B, Land Filling & Regrading Application #322, Benjamin & Heidi Sylvester, 15 Juniper Road. Proposing to demolish the existing residence and construct a new single-family residence and perform related site development activities within regulated areas. *HEARING CLOSED: 4/22/2014. DECISION DEADLINE: 6/26/2014.*

The draft resolution was reviewed and discussed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. DiDonna. All members voted in favor except Mr. Voigt who abstained because he had not attended the public

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hearing on this matter. The motion passed by a vote of 4-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2014**

Application Number: Coastal Site Plan Review #299
Flood Damage Prevention Application #29-B
Land Filling & Regrading Application #322

Street Address: 15 Juniper Road
Assessor's Map #57 Lot #14

Name and Address
Of Property Owner: Benjamin & Heidi Sylvester
15 Juniper Road
Darien, CT 06820

Name and Address of:
Applicant's Representative: Jeff McDougal
William Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Name and Address of:
Applicant: Don Knight
Knight & Grabowski
193 Hope Street
PO Box 4588
Stamford, CT 06907

Activity Being Applied For: Proposing to demolish the existing residence and construct a new single-family residence and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Juniper Road approximately 1,025 feet east of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: April 22, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: April 11 & 18, 2014

Newspaper: Darien News

Date of Action: May 13, 2014

Action: GRANTED WITH STIPULATIONS
IN PART AND WITHDRAWN IN PART

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Scheduled Date of Publication of Action: Newspaper: Darien News
May 23, 2014

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 850 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 plans, and the testimony 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 applicant proposes to demolish the existing residence and construct a new single-family residence and perform related site development activities within regulated areas. There are tidal wetlands on the subject property. Part of the subject property is in the flood zone. As part of the application materials, the first floor of the house will be at elevation 15.0' which is above the base flood elevation. Certifications were made that all mechanical equipment will be at or above the flood elevation.
2. As part of this application, detailed plans of the actual development to take place are included and stormwater runoff will be treated for water quality before it is discharged to Darien Harbor, then onto Long Island Sound.
3. GHD, Inc. prepared a stormwater management plan for the property, which addresses stormwater quality. The Commission notes the need for the applicant or property owner(s) to submit a Drainage Maintenance Plan for the proposed stormwater management system, and to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
4. During the public hearing the sport court was withdrawn by the applicant's representative, Mr. McDougal. He acknowledged that a separate application will be made in the future.
5. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
6. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the

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activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
10. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #299, Flood Damage Prevention Application #29-B, and Land Filling & Regrading Application #322 are hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The work shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein:
 - Zoning Location Survey 15 Juniper Road, prepared for Benjamin F. Sylvester Heidi Sylvester, scale 1"=20', by William W. Seymour & Associates, dated December 2, 2013 and last revised March 27, 2014.
 - Sylvester Residence 15 Juniper Road, Darien, CT Site Plan, by GHD, Inc., dated 3/26/2014.
 - New Home for Heidi & Benjamin Sylvester, by Michael LoBuglio Architect, last revised 3/26/14, Sheets F-1 and A-1 through A-11.

Since the originally submitted application materials did not include a sport court, and the published legal notices did not include the request for a sport court, the Commission cannot consider that request as part of this application. If desired by the property owner, a subsequent application will need to be submitted for review and action. Prior to the issuance of a Zoning or Building Permit for the new residence, a revised Site Plan shall be submitted with the sport court not shown.
- B. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the new house complies with the applicable flood damage prevention requirements.
- D. During the excavation, filling, regrading, and site work, the applicant shall utilize the sediment and erosion controls illustrated on the Site Plan referred to in Item A above, and any additional measures as may be necessary due to site conditions as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they

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are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

- E. As part of this application, a Drainage Maintenance Plan shall be submitted for the record. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 15 Juniper Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to address water quality. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval and prior to the issuance of a Zoning or Building Permit.
- F. The applicant shall install the stormwater management system as shown on the submitted Site Plan (in Condition A, above). The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent tidal wetlands and other environmentally sensitive areas. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at such owner's expense and as quickly as possible.
- G. Once the project is complete, and prior to May 13, 2015, the applicant shall certify in writing and/or photographs, and with an 'as-built' survey map, including topographic conditions showing the regrading of the land, to illustrate that all work has been properly completed in accordance with the approved plans. This shall include written certification by the project's professional engineer that the drainage facilities have been installed according to the approved plans, and certification that all construction complies with the Flood Damage Prevention Regulations.
- H. In evaluating this application, the Planning and 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.
- I. This approval of this subdivision 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. This includes, but is not limited to, final review and action by the Darien Health Department for the abandonment and/or construction of any septic systems, and a Demolition Permit from the Building Department.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Drainage Maintenance Plan needs to be prepared and submitted per the above, and a Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

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Land Filling & Regrading Application #324, 14 Wilson Ridge, LLC, 14 Wilson Ridge Road.
Proposing to regrade the rear yard of the property, including excavation, filling, and construction of associated retaining walls; and to perform related site development activities. *HEARING CLOSED: 4/22/2014. DECISION DEADLINE: 6/26/2014.*

The draft resolution was reviewed and discussed. Commission members noted that it would be appropriate to require a four foot separation between the retaining wall and the nearest property line and to specify that no horizontal support structures for the wall extend beyond the property line. All the Commission members agreed. 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. Sini and seconded by Mr. Olvany. All voted in favor except Mr. Voigt, who abstained because he had not attended the public hearing. The motion passed by a vote of 4-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2014**

Application Number: Land Filling & Regrading Application #324

Street Address: 14 Wilson Ridge Road
Assessor's Map #46 Lot #183

Name and Address of
Applicant and Property Owner: 14 Wilson Ridge, LLC
c/o 20 Old King's Highway South
Darien, CT 06820

Name and Address of
Applicant's Representative: Todd Ritchie, PE
GHD, Inc.
100 Roscommon Drive
Middletown, CT 06457

Name and Address of
Attorney Representing
Applicant at Public Hearing: Robert F. Maslan, Jr., Esq.
Maslan Associates
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to regrade the rear yard of the property, including excavation, filling, and construction of associated retaining walls; and to perform related site development activities.

Property Location: The subject property is located on the west side of Wilson Ridge Road approximately 50 feet north of its intersection with Wilson Ridge East.

Zone: R-1/2

Date of Public Hearing: April 22, 2014

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Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 11 & 18, 2014

Newspaper: Darien News

Date of Action: May 13, 2014

Action: APPROVED WITH CONDITIONS
AND MODIFICATIONS

Scheduled Date of Publication of Action:

May 23, 2014

Newspaper: Darien News

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

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the 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 regrade the rear yard of the property, including excavation, filling, and construction of associated retaining walls; and to perform related site development activities.
2. As part of this application, a Site Drainage Analysis dated 3/14/2014 was submitted by GHD, Inc. The neighbor to the west of the property sent in a letter dated April 14, 2014 from a professional engineer, Richard Couch, with comments and questions about the subject application. Professional Engineer Couch had been hired by the neighbor to the west, Mr. Glick, of 20 Hollow Tree Ridge Road.
3. At the public hearing, Mr. Maslan, the applicant's attorney, reviewed the grades on the subject property and explained that the lowering of the grade will not impact any of the neighbors. The flat area will prevent water from flowing into the house.
4. The submitted plans show a two foot wide area from the west property line to the proposed retaining wall. The proposed wall will not encroach into the neighbor's property. As proposed, it will be two feet between the face of the wall and the west property line. At its highest point, the retaining wall would be seven feet high. A curtain drain will be part of this structural design.

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5. At the public hearing, the Commission asked about the possibility of pulling the proposed retaining wall two feet farther from the proposed west property line, in order to avoid any potential impacts to the 20 Hollow Tree Ridge Road property both during and after construction.
6. Another neighbor spoke at the public hearing regarding concern with water from the driveway flowing onto her property. She wanted to insure that the driveway will not encroach onto her property. She requested that a French drain be installed on the property line. The submitted Stormwater Drainage and Erosion Control Plan shows that there will be proposed curbs and catch basins as part of the proposal to minimize water flowing onto the neighbor's property to the south.
7. Mr. Ritchie, the applicant's engineer, mentioned that the builder wants to plant in the area between the 20 Hollow Tree Ridge Road property line and the proposed retaining wall. That planting bed is shown on the Stormwater Drainage and Erosion Control Plan.
8. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. 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 Land Filling and Regrading Application #324 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work for 14 Wilson Ridge Road shall be in accordance with the following plans, submitted to and reviewed by the Commission, and as required to be modified herein:
 - Zoning Location and Topographic Survey 14 Wilson Ridge Road, prepared for 14 Wilson Ridge, LLC, by William W. Seymour & Associates, dated November 5, 2013 and last revised March 14, 2014.
 - Stormwater Drainage & Erosion Control Plan, 14 Wilson Ridge Road, LLC, by GHD, Inc., dated 3/14/2014.
- B. Due to concern about the location of the proposed retaining wall so close to the 20 Hollow Tree Ridge Road property line, the Commission is hereby requiring that the plans be amended to pull back the filling and regrading by a little more than two feet, such that no part of the retaining wall is within four (4) feet of the west property line (the property line shared with 20 Hollow Tree Ridge Road), and that no horizontal pieces are located off the property. Revised plans

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shall be submitted prior to the issuance of a Zoning and Building Permit for the retaining wall.

- C. Due to the height of the retaining wall, the Commission is hereby requiring that said wall be designed by a structural engineer, and that Zoning and Building Permits be obtained for it. The Building Official will confirm that the wall is being constructed in accordance with the specific plans prepared by a structural engineer. This will address Item 1 in the 4/14/2014 letter prepared by Richard Couch, who was hired by the neighbor at 20 Hollow Tree Ridge Road.
- D. The applicant has noted that there will be plantings installed between the retaining wall and the 20 Hollow Tree Ridge Road property line. Plants should be carefully selected so as to minimize possible impacts of any plant roots to this wall.
- E. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- F. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans noted in Condition A, above, and other measures as may be necessary due to site conditions, including the possible need for a silt fence downhill from the proposed retaining wall. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- G. By July 13, 2014 (within the next 60 days) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 14 Wilson Ridge Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work in the back yard.
- H. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and drainage have been completed in compliance with the approved plans referred to in Condition A, above.
- I. In evaluating this application, the Planning and 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.

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- J. The granting of this approval 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.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (May 13, 2015). This may be extended as per Section 858.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work proposed as part of this application, or this approval shall become null and void.

Chairman Cameron then read the following agenda item:

Approval of Minutes

April 1, 2014 Public Hearing/General Meeting

The minutes of April 1 were reviewed, and it was decided to postpone action on those minutes until a later date.

April 8, 2014 General Meeting

Several typos and 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. Olvany and seconded by Mr. Voigt. All voted in favor except Mr. DiDonna who had not attended the meeting. The minutes were approved by a vote of 4-0-1.

April 22, 2014 Public Hearing/General Meeting

The minutes of April 22 were briefly discussed, and it was decided to postpone action until a later date.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt, and unanimously approved. The meeting was adjourned at 9:26 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director