

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
JUNE 10, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Olvany, Voigt

STAFF ATTENDING: Ginsberg
RECORDER: Syat
Channel 79

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

GENERAL MEETING

2014-2016 Town Plan of Conservation & Development.

Carol Gould, from the planning consulting firm of Fitzgerald & Halliday, will be present to discuss the many ways to proceed with a Town Plan of Conservation & Development; discuss some of their office's recent work in other communities; and how they have approached this work.

Carol Gould and Francesco Gomes of Fitzgerald & Halliday gave a PowerPoint presentation outlining the credentials of their consulting firm. They discussed the various ways to proceed with this Town Plan of Conservation & Development and outlined various options for the Commission. They noted their previous work within various parts of the region and the State. They explained the Plan of Conservation & Development required elements, and noted the various ways to engage the public in the process. They discussed resiliency planning and transportation planning. In response to a question from Mr. DiDonna, Mr. Gomes explained what resiliency planning entails, and he noted that planning is the first step for implementation of any recommendation. Mr. Olvany asked whether their firm could put price tags or budgets on the proposed or recommended projects outlined in the Town Plan. Mr. Gomes responded that they could certainly put an early range or order of magnitude prior to actual design. Ms. Cameron asked if they did any work or proposed any projects where taking or eminent domain would occur. Mr. Gomes responded that they did do some work in both Stratford and other communities which required a taking. Mr. Olvany asked how large their firm was. Mr. Gomes responded that they have a firm of 40. Mr. Olvany asked whether they have done any telecommunications analysis. Mr. Gomes responded that his firm does not have expertise in that area. Mr. Voigt added that there certainly appears to be a need to increase wireless capabilities and that there is a proposal now pending within the Town of Darien. Mr. Voigt mentioned the burying of power lines could go towards the issue of sustainability in Darien. He then referred to recent trimming of plantings near wires by CL&P. Mr. Olvany mentioned that the Commission could subcontract parts of the Town Plan of Conservation & Development if this consultant doesn't have specific expertise in an area. There being no further questions or comments from Commission members, Ms. Cameron thanked Ms. Gould and Mr. Gomes for coming out and presenting before the Commission this evening.

At about 8:45 P.M., Chairman Cameron then read the next agenda item:

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Interpretation in response to May 30, 2014 letter from Wilder Gleason regarding Dr. Latrenta skin care business.

Determination on whether the proposed use is retail, personal service, or medical office.

Mr. Ginsberg read aloud the definition of “Personal Service Business” which is now in Section 210 of the Darien Zoning Regulations. Ms. Cameron explained that in her opinion, based upon the submittals, this seems more like a personal service use. Mr. Olvany confirmed that it is clearly not retail use. He noted that there are now changes in the medical world and one example of this would be physical therapy. He said that Botox might be more like a nail salon, which is not an elaborate medical procedure but is rather very quick. It is not oriented like a typical doctor’s office. Mr. Cunningham looked at this from the aspect of the invasiveness of the procedure, and asked how other communities deal with this. Ms. Cameron said that the Commission also needs to consider the bigger picture, and that the Planning & Zoning Commission should not have to micromanage tenants. Mr. Cunningham then noted that one aspect which could be considered as a possible categorization of this use would be which facility does the Darien Health Department need to inspect. Ms. Cameron noted that this does seem to be a benign use. It will be for Botox only with no medical procedures. She noted that NanciAnne, one of the employees, is an aesthetician, which means no medical degree is needed.

Commission members then discussed other uses which would be similar or different depending on what they do - for example, tattoo parlor; piercings; or psychiatrist/psychologist office. Ms. Cameron confirmed that this is clearly not a retail use and then asked the other members what they believed a Botox operation would be. All five Commission members present clearly believed that this would be a personal service use and not medical office or retail use.

At about 9:00 P.M., Chairman Cameron then read the next agenda item:

Ox Ridge Hunt Club/AT&T telecommunications tower referral

Mr. DiDonna noted that in the 2006 Town Plan of Conservation & Development on Page A5-1, it refers to telecommunication antennas and towers. Mr. DiDonna also referred to Section 950 of the Zoning Regulations which addresses this issue too. Mr. DiDonna mentioned that Section 950 of the Zoning Regulations is inconsistent with the State Statutes. Mr. Ginsberg explained the current procedure and explained that the State Statue changed after Section 950 of the Zoning Regulations was put into effect in the late 1990s or early 2000s. Ms. Cameron noted her various comments with this proposal including a requirement for construction sequencing and that the Planning & Zoning Commission get all of the information which is shown on the Siting Council webpage, which would allow for future staff review. Mr. Olvany said that surely there will be sub-leasing of space if this tower is actually built and he is familiar with that issue. Mr. DiDonna reiterated his question of why the local Regulations do not apply since they are in the book. Mr. Cunningham questioned whether additional antennae could be put in the United Methodist Church steeple which might allow for some demand to be met north of the Church. Ms. Cameron noted that it is her understanding that data is driving this and that it is more than just simple phone calls. Mr. Olvany confirmed that a letter will be prepared with recent comments and sent to AT&T. He asked Mr. Ginsberg to draft such a letter for the Commission’s review at the June 24, 2014 meeting so it can go out in the mail on the 25th. Mr. DiDonna wanted it made clear that this proposal is not consistent with the Town Plan of Conservation & Development and said that it might be appropriate for the Commission to update its Zoning

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Regulations to reflect the changes in both State and Federal law which now apply to telecommunications towers.

At about 9:15 P.M., Chairman Cameron then read the next agenda item:

Discussion, deliberation and possible decisions on the following applications:

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.

Mr. Olvany suggested a change in Paragraph 1 by adding a sentence. Mr. DiDonna also had changes proposed to Paragraph 2 and Paragraph 5. Mr. Olvany mentioned that there is now an existing stone wall in the Town right-of-way and that Public Works has asked that that not be enlarged. Mr. Voigt noted that proposed house is within the letter of the law in terms of height and setbacks; however it is not, in his opinion, within the spirit of the neighborhood; it pushed the limits of the Regulations which is unfortunate. Both Mr. Olvany and Mr. DiDonna agreed with Mr. Voigt. Mr. Olvany then made a motion to adopt the draft resolution as amended. Both Mr. Cunningham and Mr. Voigt said that they would be abstaining on the vote because they were not at one of the public hearings on this matter. After it became clear that there was no second for Mr. Olvany's motion to adopt the resolution, Ms. Cameron asked Mr. Ginsberg to postpone this agenda item and put it on the June 24, 2014 meeting agenda for a possible vote at that time.

Chairman Cameron then read the next agenda item:

Subdivision Application #67-B, Land Filling & Regrading Application #327, Reilly Builders, 22 Gardiner Street.

Proposing to subdivide the existing property into two building lots, construct two single-family residences; perform related regrading; and to perform related site development activities.

Mr. Cunningham mentioned that the draft resolution includes the requirement for a direct generator connection. Mr. DiDonna noted the importance of the demolition process of the existing residence and the fact that the applicant needs to work with the Town Historian. He mentioned that a demolition delay would be possible if the Town Historian deemed it necessary. Mr. Olvany had changes to Paragraph G of the draft resolution. Mr. DiDonna asked whether changes to Paragraph F would be appropriate. Mr. Cunningham and other Commission members agreed that Paragraph F was satisfactory as written. Mr. Voigt made a motion to adopt the resolution as amended this evening. That motion was seconded by Mr. Olvany and approved by a vote of 4-0-1, which Ms. Cameron abstained since she was not at the public hearing. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 10, 2014**

Application Number: Subdivision Application #67-B
Land Filling & Regrading Application #327

Street Address: 22 Gardiner Street

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Assessor's Map #45 Lot #135

Name and Address of Applicant: Reilly Builders
And Applicant's Representative: 21 Pleasant Street
Darien, CT 06820

Name and Address of Property Owner: William & Victoria Crane
22 Gardiner Street
(at time of application submittal): Darien, CT 06820

Activity Being Applied For: Proposing to subdivide the existing property into two building lots, construct two single-family residences; perform related regrading; and to perform related site development activities.

Subject Property: The subject property is located on the east side of Gardiner Street, approximately 600 feet north of its intersection with Boston Post Road.

Zone: R-1/3

Date of Public Hearing: May 27, 2014

Time and Place: 8:00 p.m. Room 206 Darien Town Hall

Publication of Hearing Notices
Dates: May 16 & 23, 2014

Newspaper: Darien News

Date of Action: June 10, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 20, 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 the Darien Zoning Regulations and all applicable sections of the Subdivision 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 showing the proposed two lot subdivision, 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:

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1. The applicant proposes to remove the existing house and subdivide the existing property into two lots. The subject property is 0.7+/- acres in an R-1/3 Zone. The subject property is served by public water and sewer. There are no inland wetlands on the subject property, and no portion of the property is in the flood zone.

STORMWATER MANAGEMENT

2. The submitted stormwater management plans prepared by Trinkaus Engineering showed proposed bioretention systems (rain gardens) and infiltrators to account for stormwater runoff.
3. The plans shown to the Commission show houses which could feasibly be constructed on each of the proposed lots. The Commission is not approving specific houses as part of this subdivision approval request. Once the applicant prepares final house plans and submits them for a necessary Zoning and Building Permit, an associated stormwater management plan for each house shall be submitted. At that time, the applicant or property owner shall prepare a Drainage Maintenance Plan.
4. The Commission notes the need for the applicants to file in the Darien Land Records a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.
5. During the public hearing, there was a discussion regarding a transfer switch for generators for each proposed residence.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. 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 Subdivision Application #67-B and Land Filling & Regrading Application #327 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. The subdivision and other associated work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Proposed Subdivision Site Plan Proposed Parcels "A" & "B" of property located at 22 Gardiner Street prepared for Reilly Builders, by Laferriere Associates, scale 1"=20', dated March 24, 2014.
 - Site Development Plan, prepared for Reilly Builders 22 Gardiner Street, by Trinkaus Engineering, LLC, scale 1"=20', dated April 7, 2014, Sheet 1 of 2.
 - Construction Details/Narrative prepared for Reilly Builders 22 Gardiner Street, by Trinkaus Engineering, LLC, scales as noted, dated April 7, 2014, Sheet 2 of 2.

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- B. All utilities serving these properties shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- C. 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.
- D. In accordance with Article IV Section C2 of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this subdivision.
- E. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- F. At the public hearing, there was some discussion regarding the exact houses to be constructed. In this case, the Commission is not approving exact houses to be constructed. The applicant / developer may work with the neighbors and modify the submitted house designs as long as all aspects of the construction comply with the Zoning Regulations.
- G. The Commission hereby requires transfer switches for the generators for each residence be included. At the public hearing, Mr. Reilly, the applicant/builder, noted that this could be incorporated for both proposed residences.
- H. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, making provisions for the diversion of water around disturbed areas, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- I. Prior to the issuance of a Zoning Permit for either of the proposed residences, 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 Darien Land Records by the applicant or property owner. The maintenance plan shall require the property owner and all subsequent property owners of each lot to maintain the drainage facilities per the maintenance plan.
- J. All sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction 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. All erosion control measures must be maintained until the disturbed areas are stabilized. Should dirt from the disturbed site end up in the roads, the developer will be responsible for removal of same within 24 hours to avoid adding sediment to the Town's stormwater system.
- K. The 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 property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the

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property shall be responsible of remedying the situation at their expense and as quickly as possible.

- L. 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. A Demolition Permit for the existing house will need to be obtained from the Building Department. Sewer Connection Permit and Street Opening Permits will be needed from the Department of Public Works/Sewer Services. All Street Openings (driveway curb cuts) shall comply fully with DPW Residential Driveway Specifications.
- M. 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 approval as it deems appropriate.

A “Notice of Drainage Maintenance Plan” and Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of Zoning and Building Permits for the new residences, or this approval shall become null and void.

The applicant must obtain a Demolition Permit and raze the existing residence prior to filing the mylar in the Darien Land Records. Because that could take some period of time, the Commission hereby authorizes the applicant up to six months from the date of this action (until December 10, 2014) to demolish the house, file the subdivision map and appropriate deeds in the Darien Land Records or this approval shall become null and void. All provisions and details of the plan 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. All completed requirements [the final revised mylar showing lot number(s) and street address(es)], shall be submitted to the Planning and Zoning Department for review and signature, prior to the issuance of a Zoning or Building Permit for either lot.

Chairman Cameron then read the next agenda item:

Land Filling & Regrading Application #326, 79 West Avenue, LLC, 79 West Avenue. Proposing to excavate and regrade associated with the construction of a new single-family residence and driveway on West Avenue, and perform related site development activities.

Mr. Voigt noted he has comments to Paragraph 1 and Paragraph 8 in the draft resolution. Mr. Olvany confirmed that it would be appropriate to include the acreage of the property within Paragraph 1. Mr. Olvany then made a motion to adopt the resolution as amended this evening. That motion was seconded by Mr. Voigt and passed by a vote of 4-0 with 1 abstention (Ms. Cameron abstained from voting since she was not at the public hearing on this matter). The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 10, 2014**

Application Number: Land Filling & Regrading Application #326

Street Address: 79 West Avenue
Assessor's Map #39 Lot #82

Name and Address of
Applicant and Property Owner: 79 West Avenue, LLC
20 Packer Brook Road
Redding, CT 06896

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

Name and Address of
Applicant's Engineer
Presenting Application at Hearing: John Martucci, PE
LBM Engineering, LLC
PO Box 44
Colchester, CT 06415

Activity Being Applied For: Proposing to excavate and regrade associated with the construction of a new single-family residence and driveway on West Avenue, and perform related site development activities.

Property Location: The subject property is located on the south side of West Avenue approximately 75 feet east of its intersection with Bailey Avenue.

Zone: R-1/5

Date of Public Hearing: May 27, 2014

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

Publication of Hearing Notices
Dates: May 16 & 23, 2014

Newspaper: Darien News

Date of Action: June 10, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 20, 2014

Newspaper: Darien News

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

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- 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 excavate and regrade associated with the construction of a circular driveway with two street openings on West Avenue. This design will minimize the likelihood of vehicles backing into West Avenue. As part of this application, the existing house, garage and carport will be demolished and/or removed from the property, and a new single-family residence constructed. The subject property is .25+/- acres.
2. The submitted Zoning Location & Topographic Survey notes in the Zoning Chart that the existing Building Coverage is 27+/-%, and the proposed Building Coverage is 19.9%. The proposed redevelopment will comply fully with the Zoning Regulations.
3. As part of this application, a Site Plan was prepared by LBM Engineering, LLC. That plan shows dry wells in the rear of the property to manage stormwater. An associated Engineering Report dated April 7, 2014 was submitted for the record. The grading plan was revised on May 12, 2014 to lower the proposed ground levels near the street, thus improving sight lines and safety. Some of the regrading will be within the street right of way and will need a permit from the Darien Department of Public Works.
4. 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.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 #326 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

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- A. Land filling, excavation, and regrading work for 79 West Avenue shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Zoning Location and Topographic Survey 79 West Avenue, prepared for 79 West Avenue, LLC, by William W. Seymour & Associates, dated March 3, 2014.
 - Site Plan prepared for 79 West Avenue LLC, by LBM Engineering, LLC, dated April 7, 2014 and last revised 5/12/2014.
- B. In order to better stabilize the area along the southern property line, and reduce the likelihood of drainage impacts and runoff to the adjacent properties, the Commission hereby requires that the area between the proposed trees near the south property line (as shown on the submitted Proposed General Landscaping Plan dated May 9, 2014) and the south property line be planted with pachysandra or another ground cover other than grass. This area shall be no less than 140 feet long and three feet wide.
- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- D. During the public hearing, a question was asked by the Commission whether any blasting is contemplated as part of this application. Mr. Martucci, the applicant's engineer, replied that no blasting will be done on the property. Thus, the Commission is requiring that no blasting be done.
- E. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the Site Plan 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.
- F. By August 10, 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 79 West Avenue 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.
- G. 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

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and drainage have been completed in compliance with the approved plans referred to in Condition A, above.

- 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. 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. A Street Opening Permit from the Darien Public Works Department (DPW) is required for the proposed work within the right of way of West Avenue. A Demolition Permit from the Building Department will be needed to demolish the existing residence. A Sewer Disconnect Permit, a Sewer Connection Permit are also needed from DPW.
- J. 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 (June 10, 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 issuance of a Zoning and Building Permit 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 next agenda item:

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

Proposal to fill and regrade associated with the construction of a new single-family residence; and to install associated stormwater management; and perform related site development activities.

Ms. Cameron noted that although she was not at the public hearing, she has reviewed the plans and believes it would be appropriate to include a condition to plant the area between the trees, which are proposed, and the southern property line. A planting such as pachysandra would help stabilize this area thereby substituting the brick wall would limit and rescript the runoff. Mr. Olvany noted that the provision in the resolution allowing for a temporary swale was a good idea. Mr. Cunningham noted his concern about the large amounts of dirt which are now piled on the site. Mr. Olvany made a suggestion to change Paragraph 3 and Paragraph F. Mr. DiDonna noted a typographical correction in Paragraph 2.

Mr. Olvany then made a motion to adopt the resolution as amended this evening, including Ms. Cameron's comments. Mr. DiDonna seconded the motion. The vote was four in favor, none opposed and one abstention (Ms. Cameron since she was not at the public hearing). The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 10, 2014**

Application Number: Land Filling & Regrading Application #328

Street Address: 465 Mansfield Avenue
Assessor's Map #2 Lot #34-1

Name and Address of
Applicant and Property Owner: Andrew Andriuk
J. Baron Land Co., LLC
c/o 5 Mallard Lane
Westport, CT 06880

Activity Being Applied For: Proposal to fill and regrade associated with the construction of a new single-family residence; and to install associated stormwater management; and perform related site development activities.

Property Location: The subject property is located on the west side of Mansfield Avenue approximately 600 feet north of its intersection with Half Mile Road.

Zone: R-2

Date of Public Hearing: May 27, 2014

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

Publication of Hearing Notices
Dates: May 16 & 23, 2014

Newspaper: Darien News

Date of Action: June 10, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 20, 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.

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- 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. In this specific case, the applicant received a Zoning and Building Permit to construct a foundation for a new single-family residence, but the extent of site regrading is limited per the Zoning Regulations. The applicant has subsequently applied to the Planning and Zoning Commission for additional site regrading that requires Special Permit approval from the Planning and Zoning Commission. The subject application is to fill and regrade associated with the construction of a new single-family residence; and to install associated stormwater management; and perform related site development activities. The subject property is 2.32+/- acres in a R-2 Zone.
2. As part of the stormwater management associated with this application, the proposal includes a 35' +/- x 75' +/- detention pond at the rear of the property. At the public hearing, neighbors noted their concerns with proposed grading, which could cause additional runoff to their property. They were also concerned about the tree cutting which had occurred, the risk that this new construction will cause water to flow onto their property, the location and design of the proposed detention pond, and the need to have verification that the actual regrading and drainage work have been performed in accordance with whatever plans are approved. At the hearing the applicant indicated a willingness to take additional steps to assure the neighbors that storm water runoff will not be a problem during any portion of the construction process.
3. 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, and potential impacts to neighboring properties to the south.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. 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 #326 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work for 465 Mansfield Avenue shall be in accordance with the following plans, submitted to and reviewed by the Commission:
 - Site Plan and Erosion & Sedimentation Plan, 465 Mansfield Avenue, by HK Associates, scale 1"=20', dated April 11, 2014 and last revised 5/9/14, Sheet 1.
 - Proposed Grading Plan for Planning & Zoning Commission Review and Action, 465 Mansfield Avenue, by HK Associates, scale 1"=20', dated April 11, 2014 and last revised 5/9/14, Sheet 1.

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- Proposed General Landscaping Plan, 465 Mansfield Avenue, by HK Associates, scale 1"=20', dated May 9, 2014, Sheet 1.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. In order to better stabilize the area along the southern property line, and reduce the likelihood of drainage impacts and runoff to the adjacent properties, the Commission hereby requires that the area between the proposed trees near the south property line (as shown on the submitted Proposed General Landscaping Plan dated May 9, 2014) and the south property line be planted with pachysandra or another ground cover other than grass. This area shall be no less than 140 feet long and three feet wide.
- D. 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. As discussed at the hearing, the Commission will allow, but does not require, the installation of an additional temporary swale or berm on the southern portion of the property to assure that no additional storm water runs to the neighbor to the south.
- E. By August 10, 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 465 Mansfield Avenue 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.
- F. 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 (CO) for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the stormwater management system have been completed in compliance with the approved plans referred to in Condition A, above. An as-built drainage report is also required.
- G. Also prior to the issuance of a Certificate of Occupancy (CO) for the residence, the applicant's engineer or surveyor shall prepare an as-built survey of the topography on the property, showing one foot contours. This will assure the Commission that all grading has been accomplished pursuant to the approved plans. At the public hearing, the applicant agreed to allow the

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neighbor's engineer or representative to walk the property with the applicant's engineer as this as-built is being prepared, and thus, that opportunity to walk the site is hereby a condition of this approval as well.

- 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. 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.
- J. 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 (June 10, 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 issuance of a Zoning or Building Permit for the new residence, or this approval shall become null and void.

In order to accommodate Mr. DiDonna, Ms. Cameron then took the next item out of order and read the following agenda item:

Approval of Minutes

May 13, 2014 Public Hearing/General Meeting

Ms. Cameron had a suggestion to delete a sentence at the end of Page 2. Mr. Voigt had some comments on Page 3 of the minutes, and Mr. Olvany has comments on Pages 2 and 14. Mr. Olvany then made a motion to approve the minutes as amended this evening. Mr. Voigt seconded that motion. The motion was approved by a vote of 4-0, with 1 abstention, Mr. Cunningham abstained, as he was not at this meeting.

Mr. DiDonna recused himself from the Tokeneke Club matters and left the meeting.

At about 9:45 P.M., Chairman Cameron read the following agenda items:

Special Permit Application #22-O/Site Plan, Coastal Site Plan Review #27-D, Flood Damage Prevention Application #20-D, Tokeneke Club, Inc., 4 Tokeneke Beach Drive/Butler's Island Road. Proposal to expand the service drive; renovate substantial portions of the bathhouse; replace large lockers and changing areas with removable lockers; install HVAC equipment and a below ground propane tank; relocate electrical boxes, utilities, and pool heaters; and perform related site development activities within regulated areas.

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Special Permit Application #22-P/Site Plan, Coastal Site Plan Review #27-E, Flood Damage Prevention Application #20-E, Land Filling & Regrading Application #325, Tokeneke Club, Inc., 4 Tokeneke Beach Drive/Butler's Island Road. Proposal to raze the tennis house, administrative offices and portion of the old clubhouse; construct a new addition to the restaurant; install additional parking; install a pergola; install a new septic system; and install associated stormwater management; and perform related site development activities within regulated areas.

Mr. Ginsberg said that a draft resolution has been given to the Commission this evening only for the bathhouse application. Mr. Cunningham noted that during its deliberations, the Commission discussed issues related to membership and construction hours limitation. He added that the Tokeneke Association has specific rules on construction hours. Mr. Olvany explained his desire to allow indoor work only on Sundays such as painting and agreed that there should be nothing done on site that makes construction noise on Sundays. He said that quiet indoor work would not likely impact anyone. Mr. Cunningham noted that Mr. Morlock, the General Manager of the Tokeneke Club, has a very good handle on events which are held annually at the Club. He said that he would like to see more details on the off-site parking, which will be used. Mr. Olvany mentioned his desire to see both resolutions at once so it can be clear that all appropriate issues are responded to and addressed. It was then agreed that both draft resolutions would be put on the June 24, 2014 Planning & Zoning Commission agenda.

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. Olvany, and unanimously approved. The meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

06.10.2014min