

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 24, 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 first agenda item:

PUBLIC HEARING

Proposed Amendment to Darien Zoning Regulations put forth by Penelope Glassmeyer.

Proposing to amend the Darien Zoning Regulations by establishing an Overlay Zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the Overlay Zone is placed upon a property.

Attorney Robert Maslan represented the applicant and explained that there had been two previous informal discussions conducted with the Planning & Zoning Commission. The current application is to amend the Zoning Regulations to create an Overlay Zone which could then be applied to any property in the R-1 Zone at the discretion of the Planning & Zoning Commission. Attorney Maslan said the proposed amendment would allow a higher density of housing for empty nesters, people that are 62 years of age and older and would encourage them to stay in town and downsize to a smaller house. He said that in the proposed Regulations he has left blanks for the Section numbers. He also said that the Planning & Zoning Commission could revise the proposed Regulations prior to the adoption without having to re-notice or conduct a new public hearing. Attorney Maslan said that, for consistency, he followed the format within the existing Zoning Regulations. He said that he counted approximately 100 acres of land within the R-1 Zone that are currently served by sewer and water that might potentially be subject to this new Zoning Regulation. The proposed Zoning Regulations are not proposed to be applicable to any particular piece of land at this time and therefore, he is not required to notify any neighboring property owners because they cannot notify all of the owners that might potentially be eligible in the R-1 Zone.

Attorney Maslan noted that there are numerous sections of the Town Plan of Conservation & Development that are relevant to the proposed amendment. He submitted those sections and other information regarding demographic characteristics of Darien.

Attorney Maslan said the proposed Zoning Regulations would only be applicable to properties in the R-1 Zone, not in other residential zones. In order to qualify, a property must be at least 130,000 square feet in area, which is almost 3 acres in size. The minimum lot depth and frontage requirements of the R-1 Zone would apply but the proposed building coverage would be limited to 15% of the lot area (as opposed to 20% normally allowed in the R-1 Zone) and the buildings would

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be limited to only 2 stories of occupied space above ground level (as opposed to 2 ½ allowed in the R-1 Zone). The maximum density allowed would be two units per acre plus any inclusionary or incentive zoning for affordable housing. Any proposed development using these Regulations would be subject to a Special Permit requirement, thus the Planning & Zoning Commission would need to make positive findings regarding traffic, noise, intensity use and other factors. There would be special controls that are applicable that would include only having one primary driveway, and possibly an emergency access driveway if needed or required by the Commission. Section 580 of the Regulations would be applicable in part to allow the density but not reduce the protective aspects of the development from the neighboring properties. He said that a 10% open space designation would be required but the land would not necessarily be an open space parcel.

Attorney Maslan said that the age 62 limitation would be applicable because Federal and State laws prevent discrimination based on age or familial relations except for persons that are 62 and older. He said that there is a similar exception for people 55 and older but there are more Federal regulations and bureaucracy involved in that type of limitation. The 62 and older designation has less Federal regulations and bureaucracy. He said that the condominium documents and/or deed restriction would include restrictions on the age of residents and the monitoring and reporting requirement to the Town to make sure that the units are continuously used in compliance with the Zoning Regulations. He said that the Town can require compliance reports and that the deed restrictions would be included in the Darien Land Records. He said that the age 62 limitation is also a definition of the Zoning Regulations. He said that any such proposed development would not have playgrounds or other amenities that one would normally associate with children. Recreation facilities would be designed for adult use.

Attorney Maslan said that he counted approximately 10 properties in the Long Neck Point Road area that might qualify for the new Regulations and 2 similar sites in the Nearwater Lane area. There is also another property on Locust Hill Road that might qualify but none of these properties would be subject to the Regulations unless a specific application is made to the Planning & Zoning Commission and the Commission adopts the Overlay Zone for those particular properties. He said there might be other situations where smaller parcels could be assembled and result in land area of three acres or more, but limited to the R-1 Zone.

There was some discussion about the very conceptual plan for the property owned by Penny Glassmeyer on Locust Hill Road. In that case there would be five buildings with one access driveway from Settler's Trail. This conceptual plan is not enough for the Commission to act upon. If the change to the Regulations is adopted, then a very detailed site specific plan would be formulated. A Special Permit application and Site Plan application would then be submitted to the Commission for review and action regarding any particular property. Occupancy of the dwellings would not be limited to current Darien residents. In response to a question, Attorney Maslan said the proposed density would be about two units per acre. He said that the increase in density would be offset by the reduced price of the units. The reduced price is a result of having a restricted group of people that could own and occupy the units. He said that the actual density on the site would also be subject to the Inclusionary Zoning Regulations. The creation of below market rate housing required by those Regulations can be managed three ways at the discretion of the Planning & Zoning Commission. The below market rate units could be created on the site; or the below market rates could be created at a different off-site location; or the developer can pay a fee in lieu of creating the below market rate units. In response to another question, Attorney Maslan said that

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requiring the age restriction of 62 and older will not likely result in any discrimination law suits, but the specific wording within the Regulations and deed restrictions needs to be done carefully and correctly. Mr. Ginsberg noted that there would need to be some kind of reporting and certification process to the Town each year to assure that the project is being occupied in accordance with the Regulations. Attorney Maslan agreed and noted that the income restrictions would only apply to the affordable and below market rate units, not to all of the units. He said that the requirement to be age 62 or greater allows the Commission to require that all of the residents, including the spouse, be at least 62 years of age. He referred to Section 24-100.303 of the State Statutes.

Jennifer Pride of 46 Locust Hill Road said that the residents in the area need protection and preservation of the R-1 zoning that allows for one single family house per lot. In this case, the applicant is proposing regulations that would allow a "development" in a single family neighborhood. She said she is not sure if the Locust Hill Road area is a great place for a development due to the additional traffic that would be generated. She said that the neighbors are on septic systems rather than on sanitary sewers. She said that she would be pleased to have the property that was formerly used for commercial purposes cleaned up, but said that the redevelopment of the property should be as is allowed by the Regulations. She said that the property has not been used as a hardware store for several years and that the property Mrs. Glassmeyer owns on the corner of Locust Hill Road and Settlers Trail creates many concerns for the neighbors. She said the development should comply with the current Regulations, not new Regulations. She said that she formerly lived in an Avalon development, and it is a different feel than the rest of Darien due to the fact that people are moving in and out.

Eric Whitney of 5 Settlers Trail said that a proposed Overlay Zone for seniors is admirable, but the result of doubling the allowed density provides enormously more profit to the developer that would not be allowed to other residents in the area. He said that allowing the proposed increase in density would be an abandonment of the one acre/one house per lot rules that are currently in effect. He said that the over-sized lots are the most valuable and nicest in the one acre zone and this type of development would target those over-sized lots. Mr. Whitney said that the first sentence in the description about zoning in Darien includes "single detached house on separate lot." He said that it is a central feature of the residential zones in Darien. He said that any property owner or prospective owner knows of such a restriction and Mrs. Glassmeyer is no exception.

He said that the hardware store formerly occupying this lot on the corner of Locust Hill Road and Settlers Trail was a commercial use that was abandoned years ago. He said that in the Zoning Regulations there is a list of residential zones with the most restrictive residential zone being the R-2 Zone. The R-1 Zone, which is proposed to be amended by the proposed Overlay Zone, is the second most restrictive zone in the Town of Darien. Multi-family zones are seventh on the list of restrictiveness and it would not be appropriate for the Commission to downgrade the R-1 Zone to be at or lower than the multi-family zone. By the proposed amendment, the developer would convert the R-1 Zone from being the second most restrictive zone to being just one level above a parking lot zone. He said by Mr. Maslan's own admission, there are over 100 acres of land that were cited as eligible for the proposed Overlay Zone.

Mr. DiDonna mentioned the Section 8-30g of the State Statutes could be applicable to allow affordable housing that could go almost anywhere. Mr. Whitney said that he would look into that, but the proposal set forth by the applicant is what is being discussed at the hearing tonight. He said

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the proposed Overlay Zone would apply to more than just Mrs. Glassmeyer's site on Locust Hill Road and Settlers Trail. He said that when he was looking at purchasing his property, which is two acres plus an open space parcel, he noticed that the Glassmeyer piece across the street was also in the Single Family Residential Zone and noted that two houses could be constructed in accordance with the current Regulations. He said he relied on the current Regulations when he purchased his property last year.

Mr. Whitney said that Settlers Trail is a dead-end street with 12 houses and it is great for kids. If the proposed development is approved, it would allow 6 more houses which would increase the density on the street by 50%. He said that the proposed amendment is not a minor adjustment, but rather a wholesale abandonment of the central principle of residential zoning in Darien.

Mr. Sini said that from the Commission's perspective, it is not important if the developer makes more money, rather it is about the goals of the community and whether those goals are being satisfied. Mr. Whitney said that the proposed Regulations would target the redevelopment of the nicest properties within the R-1 Zone by allowing a doubling or tripling of the density. Mrs. Cameron said that she remembers when it was a hardware store and knows that there is limited visibility at the intersection of Locust Hill Road and Settlers Trail. Part of the applicant's proposal would be to abandon the driveway access from Locust Hill Road.

Shauna Hurkala of 52 Locust Hill Road said that she had lived in Town for 30 years or more and said that her parents' property would apparently qualify for this Overlay Zone because they have more than enough acreage and have sewer and water. She said her parents are not looking to downsize or move into a condominium, but want to maintain the single family residential character of their neighborhood. She said that she appreciates that Mrs. Glassmeyer's other projects in Town are very attractive. She also noted that her father frequently went to the old hardware store that was on the site, but never walked to that location because the area is dangerous for pedestrians due to limited sight lines, fast moving traffic, the curves on Locust Hill Road and the fact that there are few, if any, sidewalks near there. She said that she and her neighbors expect that any redevelopment of the property will comply with the R-1 Zone. She said that her property is non-conforming because it is undersized and that when she wanted to construct her addition, she needed to comply with the R-1 Regulations. She noted that the hardware store did not have much traffic for many years due to a variety of circumstances. She questioned the Commission about the rights of the neighbors to see that the single family residential neighborhood is protected.

Mrs. Cameron said that the purpose of the hearing is so that the applicant can explain the proposal and the Commission and public can ask questions. She said that the public hearing is part of the process and then the Commission will need to make a decision about whether to adopt the requested Amendment of the Regulations.

Mr. DiDonna said that under the current Regulations, one or two very large single family homes (sometimes referred to as MacMansions) could be constructed.

Mrs. Hurkala said she needed to make sure that her house conforms with the current Regulations and would prefer to have single family houses that comply with the Regulations rather than a housing project. She said that the area is currently served by on-site septic systems, not a sanitary sewer line.

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Mr. Ginsberg said that the Sewer Commission does allow property owners to extend the sanitary sewer lines at their own expense and then gradually be reimbursed as additional property owners connect into that sanitary sewer system. The sewer system that is extended at the developer's expense is then conveyed to the Town.

Mrs. Hurkala noted that the conceptual plan does not provide details of how the development would actually take place. She said the current zoning is for single family houses on the north side of Locust Hill Road on minimum one-acre lots and single family houses on the south side of Locust Hill Road on minimum one-acre lots. Several parcels to the west is the R-½ Zone as well.

Alice Mix of 4 Wild Rose Lane asked if affordable housing units would be created. Mr. Ginsberg said that the Zoning Regulations only require affordable housing to be created if there are 5 or more units proposed in the development or subdivision. They do not need to do affordable housing if there are only 4 units proposed. Mrs. Cameron said that the Commission might not approve the Special Permit unless affordable housing units are created because that is one of the goals of the Commission. Mrs. Mix asked who really wants this type of housing and how would it be monitored to make sure that they continue to comply with the restrictions and regulations and what benefit would it be to the Town to have such housing.

Mr. Sini said that Page 6-1 of the Town Plan of Conservation and Development calls for various types of housing that are needed within the community. He said some people have been seeking senior housing for a long time.

Mrs. Mix said that this proposed development would create controversy within the community. She said that the units would be condominiums or apartments within a single family residential neighborhood and allow for attached apartment units within the same building. She asked what happens if the units cannot be sold or rented with the age restriction in place. She said that she is opposed to segregation based on age and she said that it is better to have the community where people of various ages are mixed in with each other rather than separated.

Heather Pommernelle of 3 Settlers Trail said that her property is across the street and she is very concerned about the increased amount of traffic that would be generated by a more intense development. She said that Locust Hill Road is used as a by-pass as other streets are more congested. This creates traffic jams on Locust Hill Road. She said that a Traffic & Safety Study is needed prior to any application if the Overlay Zone is created.

Sally Schmidt of 6 Settlers Trail said that she has lived in the area for 10 years and knows that it is a single family residential neighborhood. She questioned why the density would need to be doubled in order to provide senior housing. She said that more traffic would be created due to more housing units. She said if the project is approved as proposed, it would no longer be a single family residential neighborhood that complies with the current Regulations. She said that the development should comply with the current rules and regulations that are in effect.

Mr. Ginsberg read aloud from the comments of the Southwest Regional Planning Agency (SWRPA) which indicate that they do not foresee any likely inter-municipal impacts due to the proposed amendment of the Regulations.

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Attorney Maslan said that the proposed application is to amend the Regulations only. A site specific development of Mrs. Glassmeyer's property would need a much more detailed application and another public hearing before it could be acted on by the Commission. He confirmed that sanitary sewers would need to be extended into this area and would need to be paid for by the developer. It would then be turned over to the Town and other people would be allowed to connect into the sanitary sewer at their own cost, - not the developer's cost. He said that the Town of Darien does not mandate sanitary sewer connection by an individual property owner as long as the existing on-site septic system is functioning properly or unless there is some other change regarding the development on the property.

Mr. Maslan said that Section 404 of the current Zoning Regulations does already allow for a variety of uses that are not single family homes within the single family residential neighborhoods. These include private schools, churches, convents, municipal buildings and uses, and other facilities. He said that the Overlay Zone that is proposed is much better than Section 8-30g of the State Statutes which would allow for a higher density and bypasses or exempts developments from local zoning unless they are contrary to public health and safety requirements. He said that the proposed amendment of the Regulations is a compromise which is an attractive alternative to Section 8-30g. He said that if the Overlay Zone is adopted, then a proposed use of the Overlay Zone will require Special Permit approval from the Planning & Zoning Commission.

Mr. Ginsberg said that there has been some concern regarding the number of bedrooms, and the maximum and minimum sizes of the units, and limiting impervious surface area. He said that there may also be additional comments from Town Counsel. Another issue that was discussed was the minimum parking requirements of Section 904-c which require 1.5 parking space per elderly housing unit or 904a, which requires two parking spaces for each single family unit. It was noted that the Regulations specify minimum numbers of parking spaces that are required, but additional on-site parking spaces could be created as the market conditions might dictate.

Commission members discussed the possible continuation of the public hearing. It was determined that the hearing should be continued on Tuesday, July 15, 2014 at 8:00 P.M. in the Town Hall. Any proposed revisions to the proposed amendment should be submitted by July 10th so they can distribute and reviewed by everyone prior to the continuation of the hearing. The hearing will be continued on July 15th.

At about 9:45 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan #218-A/Special Permit, Papa Joe's Restaurant, 1973 Boston Post Road. Proposing to expand the existing restaurant into approximately 1,275 square feet of first floor space, establish a bar within a portion of the space, and to perform related site activities. The subject property is located on the northeast corner formed by the intersection of Noroton Avenue and Boston Post Road, and is shown on Assessor's Map #42 as Lot #1 in the NB and R-1/3 Zones.

Attorney Wilder Gleason represented the applicant and said that Papa Joe's Restaurant was first established at the site in 1973. It has been functioning at this location for more than 40 years. It currently occupies 2,800 square feet of the commercial building and they are proposing to take over part of the space formerly occupied by the Noroton Frame Gallery. This will increase the total

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restaurant area to 4,100+/- square feet. He said that the 0.64 acre parcel is legally non-conforming in numerous ways. He said that there are approximately 27 striped parking spaces to the east of the commercial building and approximately 8 parking spaces in the rear (on the north side) of the building. There are other parking spaces that are used, but are not striped as parking spaces.

Mrs. Cameron said that she knows it is sometimes hard to park at the site at night when the restaurant is near capacity.

Attorney Gleason said that in 1991, the Planning & Zoning Commission approved the expansion of the restaurant to allow some additional customer seating and to allow the kitchen to be expanded and to allow the pizza take-out service. He said that there are no known complaints regarding odor or traffic or parking. He said that Papa Joe's is open during lunch, but does not serve many clients at that time. Mama Carmela's Deli which is in the same commercial building is very popular at lunch time, but not very popular in the evening. He said that there is no basement storage area in this commercial building. He said that the proposed expansion will allow the kitchen to be completely updated and comply with all Health Code requirements and that the kitchen will occupy approximately 50% of the space. There will also be a larger waiting area that will be approximately 10% of the space. New code compliant bathrooms will be installed and a new service bar will be located adjacent to the customer waiting area. The proposed additional space will result in a total of 114 seats, 105 seats in the dining room and 9 seats at the bar. At present, there are a total of 82 customer seats.

Attorney Gleason said that employee parking usually takes place in the rear of the building or off-site. He said that there is some on street parking for customers and that the owner of the restaurant has an agreement with a neighboring site to have employees park at that other property. He submitted a letter to that effect. He said that the restaurant currently employs a maximum of 7 workers and that would be increased by 2 so that there would be a total maximum of 9 employees. He said that they conducted parking counts and, even on the busiest recent day, Mother's Day, there were 32 cars parked on site plus 7 employees parked across the street. He said that there are multiple commercial tenants within the existing building on this property and this is the only commercial operation that is open at night. He said some customers park on Garden City Road or the Boston Post Road or Noroton Avenue. He said that it is not unusual for parishioners of St. John's Church to park on this commercial property and then to attend church services across the street. He said that informally patrons of the restaurant can park at the church property, but the church is not able to provide a letter or any documentation of this informal arrangement. Attorney Gleason said that under the current Regulations, the entire commercial development would require 91 on-site parking spaces. Under the old Regulations in effect in 1991, a total of 122 parking spaces would have been required. He said that the existing on-site and on-street parking spaces have been working well. He submitted a petition containing approximately 500 signatures from people in support of the application.

Attorney Gleason said they had originally applied to the Zoning Board of Appeals for a parking variance, but the hearing had to be rescheduled. He said that the Zoning Board of Appeals public hearing will be held tomorrow night and he hopes to provide the Zoning Board of Appeals with some sense of how the Planning & Zoning Commission feels about the proposed conversion from the Noroton Frame Gallery to the restaurant use.

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Mr. Ginsberg confirmed that the Zoning Board of Appeals hearing will be held in the near future. He also noted that there are comments from the Fire Marshal and Health Department regarding the proposed expansion of the restaurant use.

Attorney Gleason said that on non-holiday weekend evenings, the on-site parking appears to be 27 or 29 vehicles for 75 seats of customer space. He said that the proposed restaurant would have 114 customer seats.

Mr. Sini asked if the bar use could be restricted. Mr. Rivecchio said that typically only 75% of the seats are utilized because there are only two or three people at a table that could accommodate four.

Attorney Gleason said that deliveries to the restaurant are about 10 truckloads per week. He said that these trucks typically make the delivery in the rear of the building and offload quickly so they can leave the site quickly. He said there is no specified unloading dock. He said that there are no known complaints from Garden City Road residents. He suggested that the Commission could approve the project with conditions and stipulations to address any future potential problems.

There were no comments from the public regarding the application.

Mr. Sini said that the proposed expansion of the existing restaurant seems to be an acceptable idea. Mr. Voigt noted that there is other safe parking in the vicinity and the other parking is available in a practical sense, although not a formal sense.

The Commission members noted that they need to continue the public hearing and they agreed to do so on July 15, 2014 at 8:00 P.M. in the Town Hall.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #234-A, Jim & Mary Wise, 7 Andrews Drive. Proposal to add to the existing residence; add a new terrace; remove the old deck and build a new deck; and replace existing retaining wall with terraced retaining walls; and perform related site development activities. The subject property is located on the west side of Andrews Drive approximately 250 feet south of its intersection with Old King's Highway South, and is shown on Assessor's Map #63 as Lot #73 in the R-1 and R-1/2 Zones.

Chris Allen of Land Tech represented the property owner and explained that they are adding approximately 200 square feet to the rear of the building and proposing to regrade the backyard area to make a terrace and a play yard. He said that stormwater treatment will include the use of a proposed rain garden. He noted that there is an existing stone wall along the northwest dividing line of the property of the neighbor.

Mr. Ginsberg said that the property is right on the Goodwives River and that the plans include a series of three retaining walls, each to be approximately 6 ft. high rather than a single, very tall retaining wall. The plan includes planting of the terrace levels between the retaining walls. He said that the plan had received approval from the Environmental Protection Commission on June 4, 2014. He asked if there is any anticipated blasting or if there would be hoe ramming.

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Mr. Allen said that they do not anticipate blasting, but instead will use a hoe ram or ripping of the rock. He was not certain how long the hoe ramming would need to take place. He said that the rocks removed will be used to build the proposed retaining walls. He said that the maximum amount of regrading might be reduced due to the cost of the work. The decision on the extent of the regrading would be made in the field. He said that the existing house has a very limited front yard area. Mr. Ginsberg feared that it is possible that the hoe ramming might continue for a while. Hoe ramming has been a source of complaints as it disrupts the neighborhood.

Mr. DiDonna said the driveway seems very narrow and he asked if the driveway floods. Mr. Allen said that he is not aware of any flooding of the driveway due to the height of the driveway above the river. He said that the contractor has reviewed the site conditions and the proposed plans and is confident that he will be able to do the proposed work.

It was noted that no safety fencing was proposed on the plans. Commission members expressed concern about the extent of the rock removal, the use of hoe ramming to remove the rock, and safety issues. The public hearing will be continued on July 8, 2014 at 8:00 P.M. so that the applicant will have an opportunity to present more information about these issues.

Paul Karpic of 11 Brushy Hill Road asked if there would be any change to the wall along his property line. Mr. Allen said that there would be no change to the wall in that area.

The public hearing regarding this matter will be continued on July 8th at 8:00 P.M.

GENERAL MEETING

Due to the public in the audience, the order of the agenda was changed to accommodate the public in attendance. Chairman Cameron then read the following agenda item:

Business Site Plan #248, Ken Kleban, 1015 Boston Post Road, CBD Zone.

Request for Blue Mercury, a proposed tenant for about 2,000+/- square feet of the first floor.

Commission members reviewed the June 17, 2014 from Daniel Brashear, V.P. Planning & Strategy, Blue Mercury, Inc. The proposed use of the 1,800 square foot +/- space at 1015 Boston Post Road would be a retail operation and they would have one space where they would provide make-up application services at the Darien location. Make-up application does not include facials or micro-dermabrasions. They would not provide spa services at this location, although they do provide spa services at some of the other 50 stores.

Commission members noted that the original plan was to have one or two treatment rooms where facial treatments would be provided. This is no longer part of the plan. The Blue Mercury use will be a retail operation that will have one space for application of make-up. Facial treatments are not requested nor are they approved.

The following motion was made: that the Planning & Zoning Commission approve the retail use of Blue Mercury and the space as described in the June 17, 2014 letter. It was noted that make-up can be applied for clients, but no facial treatments or other spa services are to be provided. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

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Chairman Cameron then read the following agenda item:

Amendment of Coastal Site Plan Review #261-A, Flood Damage Prevention Application #28-B, Foster Kaali-Nagy, 144 Five Mile River Road.

Request for reconstruction of boathouse.

Mr. Ginsberg explained that the existing dock and boathouse were damaged in Storm Sandy and that the property owner has obtained approval from the Connecticut Department of Energy and Environmental Protection to elevate the boathouse structure. During the initial work, the old boathouse structure collapsed and the DEEP has now authorized it to be replaced. The building design is the same size, but the roof line is slightly different.

Mr. Ginsberg said that he spoke with the neighboring property owner, Mr. Kane, who has no objection.

Mr. Keating spoke with the DEEP who clarified that the boathouse should be elevated, but not otherwise relocated. No filling or site regrading is allowed. Additional steps will need to be provided from the existing ground level up to the boathouse structure. The boathouse structure will be unfinished space. It will not be habitable or living space.

Commission members agreed with the proposed work on the boathouse structure. The following motion was made: that the Commission approve the request to modify the boathouse structure in accordance with the plans submitted to and approved by the Connecticut Department of Energy and Environmental Protection. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Ox Ridge Hunt Club/AT&T telecommunications tower referral.

The draft letter to the State Siting Council was discussed. Several modifications and clarifications were discussed and agreed upon. The Commission authorized the letter to be sent.

Chairman Cameron then read the following 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. *PUBLIC HEARING CLOSED 5/13/2014. DECISION DEADLINE: 7/17/2014.*

The Commission discussed the draft Resolution. The following motion was made: that the Commission adopt the following Resolution to approve the project subject to the Stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini. All voted in favor except Mr. Voigt who abstained. The motion was passed by a vote of 4 to 0 to 1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 24, 2014**

Application Number: Land Filling & Regrading Application #323

Street Address: 8 Stanley Road
Assessor's Map #24 Lot #81

Name and Address of
Applicant and Property Owner: DaCunha Builders, LLC
2 Old Woods Road
Brookfield, CT 06804

Name and Address of
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates
51 Painter Ridge Road
Roxbury, CT 06873

Activity Being Applied For: Proposing to perform site grading associated with the construction of a new single-family residence; and to perform related site development activities.

Property Location: The subject property is located on the east side of Stanley Road, at its north intersection with Devon Road.

Zone: R-1/3

Date of Public Hearing: April 22, 2014 continued to May 13, 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: June 24, 2014

Action: APPROVED WITH CONDITIONS
AND MODIFICATIONS

Scheduled Date of Publication of Action:
July 3, 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. The subject application is 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 .25+/- acres in size and is served by public water and sewer. The property is undersized for the R-1/3 zone, and is a pre-existing non-conforming lot. The as-built survey for the foundation shows that the foundation of the house is 2,018 square feet in size, or 18.27% of the lot area. This Building Coverage calculation does not include eaves or overhangs or any air conditioning units, which is likely to bring the final Building Coverage even closer to the 20% maximum. A December 24, 2013 Improvement Location Survey from John O'Brien shows the proposed Building Coverage as 19.72%.
2. In this specific case, the applicant received a Zoning and Building Permit to construct a new single-family residence, and then subsequently applied to the Planning and Zoning Commission for the subject application. The residence now under construction is larger than the prior residence on the property, both in terms of building height as well as in terms of Building Coverage. The Building Coverage of the proposed residence will be more than 19% of the property—the maximum allowed by the Regulations is 20%.
3. As part of this application, a stormwater management system is proposed. During the public hearing, the applicant's engineer presented the stormwater management system, and explained the water flow on and near the property. In response to comments received by the Commission and neighbors at the April 22 public hearing, the plans were revised by the engineer and applicant, and those revised plans were presented at the May 13 public hearing.
4. The revised plans show additional Cultec units to be installed, thereby infiltrating more water on-site. The plans also show that the revised grading of the property will result in flatter yard areas, with the construction of proposed associated retaining walls on the north and south property lines.
5. As part of this application, the applicant's engineer submitted a Stormwater Management Operation and Maintenance Plan dated 3/7/2014 and last revised 4/30/2014. The Commission found that there was an error in the report because the calculations for pre-development runoff and post development runoff calculation accidentally added the lot area, when in fact the lot area will not change. The amount of impervious surface (roof, driveway, patio, etc.) was then inappropriately compared to the ½ acre instead of the ¼ acre of actual land area. 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.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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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 Land Filling and Regrading Application #323 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work for 8 Stanley Road shall be in accordance with the following plans, submitted to and reviewed by the Commission, and as required to be modified herein:
- DaCunha Builders 8 Stanley Road, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., last revised 05/05/14, Sheet 1 of 2.
 - DaCunha Builders 8 Stanley Road, Details, by DiVesta Civil Engineering Associates, Inc., last revised 05/05/14, Sheet 2 of 2.

One of the comments received from the Public Works Department on this application (in a May 7 e-mail) is that the existing stone wall near the intersection of Stanley Road and Devon Road should not be enhanced or added on to, since it is within the Town right-of-way. For that reason, the Commission hereby modifies the Proposed Site Plan, and does NOT approve the re-pointing of the retaining wall and the change in the elevation of any part of stone walls within the right-of-way near this property. The existing wall can remain as it is, or with a permit from the Public Works Department, can be removed. A new retaining wall, similar in height to what was proposed, may be constructed on the private property (not within the street right of way) in this vicinity.

- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. 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.
- D. The submitted Stormwater Management Operation and Maintenance Plan dated 3/7/2014 and last revised 4/30/2014 requires the property owner and all subsequent property owners of 8 Stanley Road to maintain the on-site drainage facilities. A Notice of Drainage Maintenance Plan 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. The Notice of Drainage Maintenance Plan shall be picked up from the Planning and Zoning Office and filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Certificate of Occupancy for the residence.

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- E. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit:
- 1) Verification from a professional engineer in writing and/or photographs that all aspects of the drainage and stormwater management system have been completed in compliance with the approved plans referred to in Condition A, above.
 - 2) An as-built survey from a licensed land surveyor showing two foot contours. This will allow Planning and Zoning Department Staff to confirm that the grading was completed pursuant to the plans approved in Condition A, above.
- F. 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.
- G. 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.
- H. 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, as required to be modified herein, 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.

Due to the late hour, it was agreed that the discussion and action regarding the other items on the agenda will be postponed until a future meeting.

The meeting was adjourned at 10:55 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director