

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
SEPTEMBER 23, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, DiDonna, Olvany, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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

GENERAL MEETING

Discussion and deliberation and possible decision on the following:

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. *DECISION DEADLINE: 10/4/2014.*

The Planning & Zoning Commission discussed the revised draft resolution to modify and clarify the proposed amendment put forth by Penny Glassmeyer. Mr. Voigt made a motion to waive the reading of the draft resolution aloud. That motion was second by Mr. Olvany and unanimously approved.

Mr. Ginsberg noted that Mr. DiDonna had suggested a number of changes which are shown in red on the draft resolution. A number of those included typographical corrections and clarifications. Mr. Olvany then made a suggestion to include a paragraph such as is now Section 572d, which is from the DCR Zone. He suggested that Mr. Ginsberg create a new section called "Site Requirements-Basic Services". This could prevent such overlay zone from being placed upon properties which are not well located. Mr. DiDonna agreed that such a provision would be important. Mr. DiDonna noted that this proposed regulation amendment could yield numerous units on larger properties, as there are a number of properties within the one acre zone that could qualify for the overlay zone. After some discussion, Mr. Voigt and Ms. Cameron noted that they are opposed to including this "Site Requirements-Basic Services" provision as it is currently drafted within the Regulations.

Mr. Cunningham said that the Commission needs to be clear on the density of any proposal and the purposes of the Regulation amendment. Mr. DiDonna mentioned that number of units could increase significantly if such projects are implemented on large parcels. Mr. Ginsberg explained that the Special Permit provision in Section 1005 of the Regulations already would apply to any project and thus those provisions would supersede the Section 572d. Mr. DiDonna said that he wishes for standards to be in the Regulations. Commission members then had numerous other comments related to paragraphs 11, 13 and 17 in the draft resolution. After some discussion, it was agreed that paragraph 18 was not necessary and Commission members agreed to delete it.

It was agreed that everyone who lives in one of the units must be age 62 and over, no exceptions.

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Mr. Voigt confirmed that any affordable units should be at least 50% of the square footage of the market rate units. This issue was discussed at length by the Commission with the concern being that the affordable units not be too small relative to the size of market rate units. It was noted that the Regulations have included a minimum number of affordable units relative to market rate units and also clarifies the maximum number of units per acre on the site. Thus, it became clear that in almost all cases the affordable units would need to be built off site.

Note 3 within the proposed Regulation amendment was then discussed. Commission members confirmed that there may be 3,000 square feet of units on site on first and/or second floors, and half of the basement may be finished. Thus, in a 3,000 square foot ranch house, it was clear that 1,500 square feet of finished space in the basement could be implemented. Commission members then discussed the possibility of adding flexibility in Section 438d so that average of all of the affordable unit sizes is at least 50% of the market rate units.

It became clear that clarifications would need to be made in the Regulations by staff to incorporate tonight's discussion and put together a final revised draft resolution for a future meeting. Mr. Ginsberg confirmed that since the decision deadline is October 4, 2014 either the Commission will need to hold a special meeting prior to that date or get an extension of time from the applicant. Ms. Cameron then requested an extension of time until October 7, 2014 from the applicant. Attorney Maslan verbally agreed to said extension of time and the Commission members agreed that a revised draft resolution will be put on their October 7, 2014 agenda.

At about 9:25 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan #124-F, 975 Boston Post Road.

Request for new second floor office tenant, Darien Academic Advisors, in the space now or formerly occupied by Hunter Recruiters.

Mr. Ginsberg explained that the site is subject to a shared parking arrangement and thus any and all new tenants must be approved by the Planning & Zoning Commission before they can occupy the space. In this case, the space was formerly occupied by Hunter Recruiters and now will be occupied by Darien Academic Advisors. The Commission reviewed the submitted materials and did not have any concerns. The following motion was made: That the Planning & Zoning Commission approve the requested second floor use of the site at 975 Boston Post Road by Darien Academic Advisors. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #302, Doug & Rhonda Sherwood, 245 Long Neck Point Road.

Proposing to raze the existing residence and construct a new single-family residence; and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 2,600 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #13-2 in the R-1 Zone.

Mr. Ginsberg explained that the house at this site has been knocked down and the applicant has proposed to construct a new building. There is no construction proposed within the critical 100 foot

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area adjacent to Mean High Water but the project is within the 1,000 foot Coastal Site Plan Review area. The applicant proposes construction of a large house. Commission members asked about the proposed garage. Scott Raissis, Project Architect, said it would be a four car garage. He said that the project does not include a swimming pool or a pool house.

The Commission members noted that all neighboring property owners had reviewed the plans and had indicated that they have no objection to the project. Based on the fact that the neighbors had already signed off on the project, the Commission members felt that a public hearing would not be necessary. The following motion was made: That the Planning & Zoning Commission approve the coastal area management aspects of the project so that construction may proceed in accordance with administrative permits to be issued by the Zoning Enforcement Officer and Building Official. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Any Other Business (Requires two-thirds vote of Commission)

To accommodate the public in attendance, Commission members unanimously agreed to move to "Other Business". The following motion was made: That that Planning & Zoning Commission discuss the project at 123 Five Mile River Road under "Other Business". The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Mr. Ginsberg explained that the developer has started some of the site work and in an effort to protect and preserve the large oak tree on the property, has decided to move the house approximately 8 feet farther to the south than the originally approved plan. Commission members then briefly reviewed the revised plan. The following motion was made: That the Planning & Zoning Commission approve the requested modification of the previous approval so that the house will be approximately 8 feet farther to the south than originally designed. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Commission members returned to the public hearing portion of the meeting. Chairman Cameron read the following agenda item:

PUBLIC HEARING

Business Site Plan #33-C/Special Permit, Douglas McKay/537 Post Road, LLC, 537 Boston Post Road. Proposing to convert office space to three apartments within 1,850+/- square feet of the second floor of the existing building at 537 Boston Post Road (above the Compleat Angler), as part of an "after-the-fact" permit. The subject property is located on the north side of Boston Post Road approximately 700 feet east of its intersection with Brookside Road, and is shown on Assessor's Map #14 as Lot #36 in the DB-2 Zone.

Douglas McKay explained that he is one of the owners of the property and that the space on the second floor of the building had formerly been occupied as office space. Renovations were made and it was converted to apartment use without obtaining necessary Zoning and Building Permits. Those apartments were rented but upon order from the Fire Marshal they were vacated. The applicant is now seeking to get the appropriate permits and approvals so that the spaces can be re-rented as three apartments. They will stay vacant until all the approvals have been obtained. Section 624h of the

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Zoning Regulations allows apartment uses in the DB-2 zone on the upper floors subject to a Special Permit from the Planning & Zoning Commission.

In the discussion it was noted that there was a large parking area that serves the commercial uses on the property as well as the apartment uses. There can be no designation of individual parking spaces for either residential or business users. Since it is one large, shared parking area, no reserved or designated spaces can be created. Mr. McKay said that he understands the Fire Marshal wants sprinklers to be installed, and that work will be done if a Special Permit use is approved by the Planning & Zoning Commission. Mr. DiDonna said that he thinks that apartment uses on that second floor does make sense.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing at this time and should make a decision on this matter in October. That motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Special Permit Application #281/Site Plan, Kumon of Darien, 899 Boston Post Road. Proposing to establish Kumon of Darien (a personal service use) in the first floor space formerly occupied by Koenig Art Emporium. The subject property is located on the northwest side of Boston Post Road approximately 30 feet east of its intersection with West Avenue, and is shown on Assessor's Map #17 as Lot #1 & #2 in the CBD Zone.

Kerri O'Brien spoke and explained that the proposed use will include a book store on the front portion of the space that is adjacent to the Boston Post Road. The rear portion of the commercial space will be used for instruction area for students. She anticipates that there would be approximately five students at the site at any given time. To the rear of the commercial space is a common parking area that is accessed via Mansfield Avenue and West Avenue. Mrs. O'Brien said that the portion of the common parking area adjacent to the proposed Kumon space is very seldom fully occupied. This is in contrast to the Mansfield Avenue end of the parking area which is frequently congested. Mrs. O'Brien said that a student receiving tutorial services in one subject will be at the site for approximately 30 minutes. If they are receiving services in two subjects they will be at the site for approximately 60 minutes. She said that the children will generally enter from the parking lot at the rear of the building because that is where the entry foyer and greeting area will be created.

With respect to the bookstore portion of the use, which is on the front (Boston Post Road) side of the building, Mrs. O'Brien said that Kumon workbooks will be available as well as a collection of classic books that are categorized by reading ability and age level. The books will be available to the general public.

Mr. Cunningham said that his observation of the area has been that parking during after school hours will not be a problem. Mr. Ginsberg said that keeping the bookstore open as a retail storefront is an important aspect of the project. Mrs. O'Brien noted that the bookstore portion of the building will generally be closed by 4 P.M. because that is when the students will be arriving for their educational services. She noted that this is not a typical tutoring service or an SAT prep class type of business. She said that the majority of the clients are elementary school students who are having problems in one or more areas of academic training and need to get caught up in those areas.

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A woman spoke and noted that she used to work at Coldwell Banker Real Estate, which is adjacent to the proposed storefront. She said that the parking conditions on Saturdays are more intense than during the weekdays.

No one else spoke in favor or against the application. The following motion was made: That the Planning & Zoning Commission close the public hearing and will render a decision in October. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #74-C, Flood Damage Prevention Application #327-A, Land Filling & Regrading Application #305-A, Hamilton & Anabel James, 50 Contentment Island Road.

Proposing to replace/expand existing patio/terrace; raise grade at rear of residence; modify driveway; install landscaping; and perform related site development activities within regulated areas. The subject property is located on the south side of Contentment Island Road approximately 1,500 feet south of its intersection with Shennamere Road, and is shown on Assessor's Map #68 as Lot #22 in the R-1 Zone.

Jeffrey McDougal of William W. Seymour & Associates Land Surveyors represented the applicant and explained that there is some minimal grading being proposed to expand the existing patio and that some of the regrading is within 15 feet of the property lines. He said that the existing paved driveway looks like it is gravel but it is actually a paved area underneath and then covered with stone. It will be removed and replaced with pervious driveway blocks so that stormwater will not run off the driveway, rather it will be absorbed into the area underneath the driveway. Mr. McDougal said that a tiny strip adjacent to the easterly portion of the property is inland or tidal wetland but no work is taking place in close proximity to that wetland area. Mr. Voigt questioned what type of maintenance will be needed for the pervious driveway materials to make sure that water continues to soak into the area rather than running off. Mr. McDougal said that the new driveway will need to be washed and cleaned and in fact, in some cases needs to be vacuumed to make sure that fine particles of material do not clog the spaces between the pervious pavers.

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

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #170-D, Land Filling & Regrading Application #77-D, Tom & Kathleen Arrix, 138 Goodwives River Road.

Proposing to modify and expand existing driveway; establish motor court with associated retaining walls; install terrace; and to perform related site development activities within a regulated area. The subject property is located on the east side of Goodwives River Road approximately 10 feet south of its intersection with Salem Straits, and is shown on Assessor's Map #62 as Lot #84-A in the R-1 Zone.

Steve McAllister, Professional Engineer from McChord Engineering, explained that construction of the addition and alterations to the residence is already taking place. In conjunction with that project, they

now wish to regrade the driveway area and the turn-around area / parking area adjacent to the garage. By regrading the site, they will reduce the driveway pitch from 14% down to 10% (which is the maximum allowed by the Regulations for new driveways) and create a safe turnaround area adjacent to the garage. A proposed retaining wall that will be no more than 5 feet in height will contain the fill needed for the turnaround area. Commission members reviewed the grading plan as well as the sediment and erosion control drawings.

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

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #296-A, Flood Damage Prevention Application #336-A, James & Elizabeth Lee, 19-23 Contentment Island Road. Proposal to rebuild and extend existing sitting wall; install fire pit with associated patio; and perform related site activities within regulated areas. The subject property is located on the east side of Contentment Island Road approximately 450 feet northeast of its intersection with Shennamere Road, and is shown on Assessor's Map #67 as Lot #57 and #58 in the R-1 Zone.

Douglas DiVesta, Professional Engineer, represented the applicant and explained that in December 2013 they had obtained approval from the Planning & Zoning Commission for construction of a garage and septic system at 23 Contentment Island Road. The applicant has also purchased the property at 19 Contentment Island Road and they want to remove and replace the old wall that separates the sandy beach area from the lawn area. The new wall will be in the same location as the existing wall but instead of the old brick, the new wall will be made of fieldstone. They also proposed to extend the wall so that it connects with the fieldstone wall at 23 Contentment Island Road. Additional work proposed on 23 Contentment Island Road will include installation of a fire pit and terrace area. Since the work is within 100 feet of Mean High Water it does require Planning & Zoning Commission review and action.

Mr. Ginsberg said that the plans were referred to the Connecticut Department of Energy & Environmental Protection. They have not commented regarding the proposed work.

There were no comments from the public on regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing this matter and a decision will be made in October. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #333, Michael Glynn & Sara Hamon, 9 Hillside Avenue. Proposing to expand and extend the existing driveway, install associated retaining wall, and perform related site activities. The subject property is located on the west side of Hillside Avenue approximately 300 feet north of its intersection with Boston Post Road, and is shown on Assessor's Map #47 as Lot #29 in the R-1/3 Zone.

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Jacek Bigosinski, Project Architect from PB Architects, explained that the project includes construction of a two car garage addition with a bedroom above. The existing driveway on the north side of the property will be continued across the front of the house and proceed to the new garage that will be on the south side of the house. To accommodate the proposed new driveway, a new retaining wall must be built. The northerly portion of the retaining wall will be approximately 2 ½ feet tall. The southeasterly portion of the retaining wall will be approximately 5 ½ feet tall to accommodate the turnaround area adjacent to the garage. Mr. Bigosinski said that the drainage management plan had been prepared by the project engineer and had been submitted to the Department of Public Works for review and comment. The drainage plan is being revised to address the comments from the Public Works Department. Ms. Cameron said that she wants to continue the public hearing until October 7, 2014 to get complete information about the drainage plan.

Pam Adler of 6 Hillside Avenue questioned the face material of the wall. She wondered whether it would match the old house and she also wondered about landscaping to soften the view of the proposed wall. She submitted a letter expressing her concerns. She also noted that a large copper beech tree is located on the neighbor's property just to the north of the existing and proposed driveway. She said that portion of the existing driveway located to the north of the existing house at 9 Hillside Avenue could be removed once the new driveway is constructed. She said that removing this existing portion of the driveway would help to preserve the existing copper beech tree on the neighbor's property.

Mike Glynn, property owner, said that the face of the new retaining wall would be fieldstone. He said that the tree in question is on the neighbor's property and that much of the area surrounding the tree is the paved driveway leading to the neighbor's house. He said that he has no landscaping plan for the front of the retaining wall. Mr. Bigosinski said that the proposed driveway will be gravel. It was noted that at least one drawing submitted with the application shows that the proposed driveway will be paved. Mr. Bigosinski said that there are no plans to change the driveway on the north side of the existing house.

Commission members said that it would be appropriate to continue the public hearing so that the issues in question can be resolved. Pam Adler said that removing the parking area and driveway on the north side of the house could facilitate water getting to the roots of the copper beech tree. The Commission agreed that the public hearing will be continued on October 7, 2014 at 8 P.M. in room 206 of Town Hall.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #334, Wilhem Darien, LLC., 14 Patricia Lane. Proposing to raze the existing residence and construct a new single-family residence with associated filling, regrading, and stormwater management, and perform related site development activities. The subject property is located on the west side of Patricia Lane approximately 550 feet north of its intersection with Dubois Street, and is shown on Assessor's Map #43 as Lot #82, in the R-1/3 Zone.

Mark Lebow of William W. Seymour & Associates Land Surveyors represented the applicant and submitted letters of support from three of the neighboring property owners. He said that the house on the property has been demolished and a new house will be built. The removal of the old house eliminates three non-conforming aspects. The new house will comply with the applicable Regulations. A detailed stormwater management plan has been created and it will improve the drainage conditions

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and therefore will have less impact on the neighbors than the old house and driveway conditions. Ms. Cameron said that the engineering and drainage report indicates that the site drains to the north when it appears that the site actually drains to the southwest. Steve McAllister, Project Engineer, confirmed that the drainage report contained an error and he will correct that mistake. The total impervious area including house and driveway will be approximately 3,445 square feet which is approximately 38% of site. He said that the drainage system has been designed to actually decrease the peak flow of run off. He said that up to a 10 year design storm will be captured within the drainage system and then the out flow from the drainage system will not exceed the out flow that was experienced before development. Ms. Cameron said that she was concerned about runoff in terms of peak flow and also in terms of total volume of run off.

Chris Pagliaro, Project Architect, said that the proposed 3,900 square foot, two-story house will have a two car garage. It will have 4 bedrooms and 3 ½ bathrooms. They have designed the house to not exceed the maximum height or building coverage allowed by the Regulations.

Mr. Lebow said that Section 880 of the Zoning Regulations requires the storm management be implemented and it will be installed during the construction process. Manhole ports will be included so that the underground drainage system can be inspected and maintained as frequently as required. Ms. Cameron again expressed her concerns about the inaccuracy of the drainage report. Mr. Voigt said that there are many issues that arise with the replacement of an old house with a big new house. Residents are giving the Commission lots of push back regarding having more restrictive Regulations to prevent inappropriate redevelopment of properties. Mr. Lebow understood that the Commission might consider a new Regulation regarding the total developed site area in residential zones. This would include limits on the building coverage as well as total impervious area. This would be one way to improve the drainage conditions and make sure that they do not get any worse.

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

There was no other business to consider. 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 10:45 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

David J. Keating
Planning & Zoning Assistant Director