

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
FEBRUARY 12, 2013**

Place: Auditorium, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Cameron, Cunningham, DiDonna, (and Voigt arrived at 8:25 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Conze opened the following agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #278, Flood Damage Prevention Application #310, Land Filling & Regrading Application #284, Justin & Mary Beth Livengood, 12 Cross Road. Proposing to raze the existing residence; construct a new single-family residence with associated septic system; modify the driveways; and perform related site development activities within regulated areas. The subject property is located on the northeast corner formed by the intersection of Cross Road and Hope Drive, and is shown on Assessor's Map #65 as Lot #1, R-1 Zone. *HEARING ORIGINALLY OPENED ON JANUARY 8, 2013. TO BE IMMEDIATELY CONTINUED TO FEBRUARY 26, 2013 AT APPLICANT'S REQUEST.*

Chairman Conze announced that the matter has been continued to February 26, 2013 at 8 P.M. in the Auditorium of Darien Town Hall.

Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding Flood Damage Prevention Application #314, Land Filling & Regrading Application #289, Marc Heissan, 126 Five Mile River Road. Proposing to raise the existing single-family residence and construct an addition; and to fill and regrade, and perform related site development activities within a regulated area. The subject property is located on the west side of Five Mile River Road, approximately 675 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #17-A, in the R-1 Zone. *HEARING OPENED 1/29/2013.*

Project Engineer John McCoy, P.E. explained that there have been numerous conversations with the neighbor's engineering representative. The plans have been modified to address those plans. There have been changes made in the grading between the front neighbor and the existing house and they have improved the drainage system in that area. They are also getting rid of the low spot on the north side of the house by filing and regrading in conjunction with the neighboring property owner. Notes and details for all of the drawings and plans have been coordinated and updated. Another change includes the new location of the shed to the southwest corner of the site. All of the revised plans are re-dated on February 4, 2013.

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Barry Hammons, P.E. explained that he is representing the neighboring property owner and he is satisfied with the revised plans.

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

Chairman Conze opened the general meeting and read the following agenda item:

GENERAL MEETING

Flood Damage Prevention Application #318, Judith Kilmartin, 176 Nearwater Lane. Proposing raising of the house with modifications, construction of a front portico, and perform related site development activities within a regulated area. The property is situated at the southeast corner formed by the intersection of Nearwater Lane and Shipway Road and is shown on Assessor's Map #55 as Lot #1 and located in the R-NBD Zone.

Project Engineer Robert Frangione, P.E. explained that the house was damaged during the Super Storm Sandy and the plan now is to lift the house to be above the expected flood level. Some minor filling and regrading will be performed against the new foundation.

Mr. Ginsberg said that the neighboring property owners had all signed off on the plan indicating that they see no need for public hearing on this matter. He also noted that the foundation design has been certified by the professional engineer and that the Kilmartin's have obtained the setback variances they need from the Zoning Board of Appeals because this is a corner lot. He said that the new first floor will be three feet higher than the existing first floor and will comply with the current Flood Damage Prevention Regulations.

Commission members discussed whether they would approve the application at this meeting or should they wait for a formal draft resolution to be prepared. They agreed that it will facilitate the homeowner's efforts if the Commission acted on the application at this time. Director of Planning Jeremy Ginsberg suggested a number of standard conditions and stipulations that should be included if the Commission is going to approve the application at this time.

The following motion was made: That the Planning & Zoning Commission approve the application to elevate the existing house at 1756 Nearwater Lane subject to the following conditions and stipulations:

1. The approved plans are entitled:
 - Zoning Location Survey 176 Nearwater Lane prepared for Judith W. Kilmartin, by William W. Seymour & Associates, scale 1"=10', last revised January 28, 2013.
 - Proposed Site Plan for Judith Kilmartin, 176 Nearwater Lane, by Frangione Engineering, LLC, dated January 17, 2013, Overall Site Plan Sheet S1 and Details & Notes Sheet S2.

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- Kilmartin Residence 176 Nearwater Lane, last revised January 25, 2013, Sheets CS, FP, ELEV.
2. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect or engineer that verifies that the final design complies with the applicable flood damage prevention requirements.
 3. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans, and as may be necessary due to site conditions. These 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.
 4. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project structural engineer that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final “as-built” survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
 5. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for Zoning and Building Permit applications, and a Sewer Disconnection and Connection Permit for the elevated/modified residence.

The motion was made by Ms. Cameron and seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Flood Damage Prevention Application #319, Julianna Spain, 11 Mayflower Road. Proposing to: elevate the existing house with modifications including the removal of the north side family room and rear terrace, to construct a new terrace and egress stairs, and to perform related site development activities within a regulated area. The subject property is on the east side of Mayflower Road, approximately 225 feet south of its intersection with Shipway Road, and is shown on Assessor’s Map #55 as Lot #55 and #56 in the R-NBD Zone.

Chad Nehring, Project Architect, explained that they are lifting the existing house so that it will be above the expected flood level. They are adding new stairs and a new terrace area to transition from the existing ground level up to the new floor level of the house. A special structural design has been incorporated into the revised foundation to avoid collapse. Mechanical equipment will all be elevated up above the expected flood level. The project will have minimal impact on the

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neighboring property owners because there will be no regrading involved. He said the height of the new structure will be 27.2 feet, which is in compliance with the existing height limitations.

After further discussion, the following motion was made: That the Planning & Zoning Commission approve the project to elevate the existing house at 11 Mayflower Road subject to the following conditions and stipulations:

1. The approved plans are entitled:
 - Spain Residence 11 Mayflower Road, Proposed Sediment & Erosion Control Plan, by Nehring+Associates, Architecture, LLC, dated 1.30.13/2.8.13, Sheet L-2.
 - Spain Residence 11 Mayflower Road, by Nehring + Associates, Architecture, LLC, dated 1.30.13, Dwg. No L-1, A-1 through A-5.
 - Spain Residence 11 Mayflower Road, by The Archer Engineering Company, dated 1/29/13, Drawing S-1 through S-3.
2. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect or engineer that verifies that the final design complies with the applicable flood damage prevention requirements.
3. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans, and as may be necessary due to site conditions. These 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.
4. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant or property owner shall submit verification from the project structural engineer that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final "as-built" survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
5. The granting of this Permit does not relieve the applicant and property owner of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for Zoning and Building Permit applications, and a Sewer Disconnection and Connection Permit for the elevated/modified residence.

The motion to approve was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

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Amendment of Special Permit Application #89-F/Site Plan, Town of Darien, 126 Ledge Road.

Request to install an additional fire training building at the Town Transfer Station.

Mr. Ginsberg explained that in June of 2011, the Planning & Zoning Commission had previously approved the installation of a fire training structure at the existing Town Transfer Station property at 126 Ledge Road. That project was never implemented. The Town is now seeking re-approval for that same project. It will be a two-story building that will be on the back portion of the property near the train tracks. There is no construction activity within 50 feet of any wetlands. The Darien Fire Commission supports the proposed construction of the fire training facility. Mr. Ginsberg said that they are technically requesting an amendment of the existing Special Permit for this site.

After brief discussion, the following motion was made: That the Planning & Zoning Commission approve the proposed construction of a fire training building in accordance with the submitted plans and materials. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved.

Mr. Voigt arrived at approximately 8:25 P.M.

Chairman Conze read the following agenda item:

Site Plan Application #281/Special Permit, Town of Darien, 35 Leroy Avenue.

Request to modify previously approved stormwater quality measures to be implemented as part of Condition M of the June 5, 2012 Adopted Resolution.

Mr. Ginsberg explained that the project is proceeding and the Town is requesting a modification of the previously approved stormwater quality measures to be implemented as part of Condition M of the June 5, 2012 approval. Commission members reviewed the plans and modifications and felt they were adequate. The following motion was made: That the Planning & Zoning Commission approve the requested modifications to drainage plans. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit Application #125-E/Site Plan, Town of Darien, 2 Renshaw Road.

Request for on-site portable temporary storage facility within parking lot for Youth Commission.

Mr. Ginsberg explained that the temporary storage facility will be created for the Youth Commission because during the renovation work for the portion of the building to become the Community Center, their existing storage spaces will not be available. Commission members considered this to be a very minor amendment. The following motion was made: That the Planning & Zoning Commission approve the storage facility plan as submitted. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

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Business Site Plan #86-D/Special Permit, Bob Bantle, 365 Boston Post Road.

Request to modify recent approval regarding: floor plans; parking; Dumpster location; and lighting.

Mr. Robert Bantle explained that during the process of finalizing the construction drawings a number of internal renovations have been included. These involve relocation of the handicap accessible bathroom so that it will be accessible to both the office use and the golf retail/service use. This has resulted in a number of other changes in respect to stairways and handicap access. External changes incorporated into the final construction drawings include deletion of the porch or stairs on the left (west) side of the building and making a synthetic putting green rather than a natural grass putting green on the back right hand side of the building. Mr. Ginsberg said that the lighting details now show that there would be motion sensors for the lighting fixtures and they will be shielded and directed downward. Mr. Ginsberg did express some concern about the putting green being a synthetic material instead of natural grass. He said that if it is synthetic, then it should count toward developed site area rather than the Commission setting a precedent that would affect other properties. Mr. Ginsberg also noted that the internal square footages of various uses and spaces has been updated to reflect the changes in the floor plan. The chart indicating the square footage for each use has been updated accordingly. He also said that the Dumpster has been relocated outside of the building and the interior of the building has been modified in respect to kitchenette in the office space.

Mr. DiDonna said that he had a question regarding the operations of Smokey Mountain Chew. Mr. Bantle said that the paperwork for that business may be conducted here at the site but the actual operations of storage and moving of materials takes place elsewhere. This site in Darien will not be used for any product deliveries or storage for Smokey Mountain Chew. This site in Darien will only be used for minimal administrative work for that business.

After brief discuss, the following motion was made: That the Planning & Zoning Commission amend the Special Permit application and Business Site Plan application for 365 Boston Post Road in accordance with the most recently submitted plans and subject to the need for final as-built surveys and verifications that all work is performed in accordance this modified approval. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #135-A, Venture Yoga, 10 Center Street.

Request to allow creation and sale of on-site food and drink.

Mr. Ginsberg explained that the yoga facility operators now wish to provide some refreshments for their clients. The refreshments would be produced on site in the kitchen facilities of the restaurant, which is in the same building. No one will be coming to the yoga facility just to eat or drink. The refreshments will be for the yoga clients only. Mr. Ginsberg said that the Health Department has approved the plan to use the on-site facilities of the restaurant to prepare the refreshments for the clientele of the yoga business. Mr. Spain said that this seems to be a proper anillary use for the clients as it is proposed at this time. Any further expansion or modifications will require reconsideration by the Planning & Zoning Commission prior to those changes being implemented.

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The following motion was made: That the Planning & Zoning Commission amend the existing Special Permit/Site Plan to allow for the on-site preparation of refreshments for the clients of the yoga facility in accordance with the materials submitted. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the following agenda item:

Coastal Site Plan Review, Mark Blackman, 99 Long Neck Point Road, R-1 Zone.

Request for removal of two tulip trees within the 100 foot Coastal Area Management area.

In this case, some of the tree removal proposed on the property is within 100 feet of Mean High Water, and therefore needs Planning & Zoning Commission approval before it can be implemented. The Commission members reviewed the information from the contractor and arborist hired by the Blackmans. They concurred that the removal of the trees was acceptable and therefore, the following motion was made: That the Planning & Zoning Commission authorize the removal of the two trees at 99 Long Neck Point Road in accordance with the submitted materials. The motion was made by Mr. Spain, seconded by Mr. Voigt and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Site Plan Application #272, Calvary Baptist Church, 988 Boston Post Road, CBD Zone.

Request to add retaining wall around the entrance to the Undercroft.

Jacek Bigosinski, Project Architect, explained that the purpose of the project is to improve the access to the Undercroft, or basement portion of the building. This actually changes the Site Plan slightly because the walkway is modified. Commission members reviewed the plans. The following motion was made: That the Planning & Zoning Commission approve the requested modifications to the Site Plan in accordance with the submitted materials. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit Application #59-F, Barbara Davis, 26 East Lane.

Request to amend Special Permit to no longer require that staff live on-site.

Mr. Ginsberg explained that the applicant requested this matter be postponed at this time.

Chairman Conze read the following agenda item:

Discussion of potential zoning regulation amendments and comments received from Architectural Review Board (ARB) and Zoning Board of Appeals (ZBA).

The Architectural Review Board memorandum suggests a number of minor language changes regrading signs. Commission members felt that these recommended modifications are worthy of placing on an agenda at a future meeting for a public hearing.

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Commission members discussed the memorandum from the Zoning Board of Appeals suggesting a number of modifications regarding a variety of issues. Commission members agreed that these modifications are worthy of public hearing.

Chairman Conze read the following agenda item:

Discussion of potential zoning regulation amendments relative to FEMA updates of the Flood Insurance Rate Maps to take effect in July 2013.

Mr. Ginsberg mentioned that the Federal Emergency Management Agency (FEMA) has submitted revised Flood Insurance Rate Maps (FIRMs) to the Town and indicated that these new maps need to be adopted by July 2013. The Commission members agreed that they would schedule a public hearing regarding the adoption of those revised maps.

Chairman Conze read the following agenda item:

Deliberation ONLY regarding:

Amendment of Subdivision Application #602, Nastro/Blair, 360, 362, 366 Brookside Road. Public Hearing regarding the Commission's October 2, 2012 approval of a proposed modification of previously approved subdivision, by eliminating a shared driveway; and the subsequent October 6, 2012 letter from Attorney Robert F. Maslan, Jr. on behalf of the Lowmans *PUBLIC HEARING ORIGINALLY CLOSED ON JANUARY 29, 2013. DECISION DEADLINE IS: APRIL 3, 2013.*

Ms. Cameron said that any amendment of a subdivision should have a public hearing and if any owners within a subdivision object, then the Commission should be very leery about approving the modification. Mr. Conze said that it seems like it should not have been approved due to the potential impact on the neighbor and possible applicability of the deed restriction. Mr. Cunningham said that the proposed driveway modification does not seem to be affected by the deed restriction because it does not prohibit a driveway; it only addresses the establishment of a double driveway on the south side of the property. Mr. Spain said that the Town does not enforce private deed restrictions unless the deed restrictions were required as part of the subdivision approval. He said that he thinks a public hearing on amendments to subdivisions does seem appropriate but does not go as far as indicating that just because one or more property owners from the subdivision do not concur that the approval should not be granted. Mr. Conze said that the applicant should work out the differences with the neighbors. Mr. Cunningham said that if the adjacent neighbors had not objected then the new driveway would already have been built. Ms. Cameron questioned whether the Planning & Zoning Commission should require a traffic or safety study for any changes in driveways. Mr. Cunningham said the Commission should not go through the entire process again just because they want a change in the location of one driveway. He said the Commission should only deny it if the driveway location is unacceptable, not because one neighbor disagrees. Commission members deliberated but no motions were made and no action was taken on the pending application.

Chairman Conze then read the following agenda item:

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Discussion, deliberation and possible decisions regarding:

Coastal Site Plan Review #138-D, Flood Damage Prevention Application #140-D, Land Filling & Regrading Application #283, Gavin & Melissa Baiera, 26 Shipway Road. Proposing to construct a pool, and related pool terrace; install pool equipment and rain garden, and perform related site development activities within regulated areas. *HEARING OPENED 10/23/2012 AND WAS CONTINUED TO 11/20/2012 AND 1/15/2013 AT APPLICANT'S REQUEST.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution on the following agenda item because each member has had the opportunity to read the draft prior to the meeting. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved.

The Commission members discussed the draft resolution to approve the Baiera project at 26 Shipway Road. The following motion was made: That the Planning & Zoning Commission approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
FEBRUARY 12, 2013**

Application Number: Coastal Site Plan Review #138-D
Flood Damage Prevention Application #140-D
Land Filling & Regrading Application #283

Street Address: 26 Shipway Road
Assessor's Map #57 Lot #43

Name and Address of:
Property Owner: Gavin & Melissa Baiera
26 Shipway Road
Darien, CT 06820

Name and Address of Applicant &:
Applicant's Representative: Rob Frangione, PE
Frangione Engineering, LLC
15 Snowberry Lane
New Canaan, CT 06840

Activity Being Applied For: Proposing to construct a pool, and related pool terrace; install pool equipment and rain garden, and perform related site development activities within regulated areas.

Property Location: The subject property is located at the north side of Shipway Road, approximately 300 feet east of its intersection with Plymouth Road.

Zone: R-1

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Date of Public Hearing: Hearing originally opened on October 23, 2012 and was continued to November 20, 2012 and January 15, 2013.

Time and Place: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices

Dates: October 12 & 19, 2012

Newspaper: Darien News

Date of Action: February 12, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 22, 2013

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant's representative 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 construct a pool, and related pool terrace; install pool equipment and rain garden, and perform related site development activities within regulated areas. The subject property is adjacent to Long Island Sound, is about 1.83+/- acres in size, and is served by public water and public sewer. Due to the property's irregular shape and the presence of wetlands, there is very limited usable land on the property, with most of the usable land being in a 100 foot +/- area between Long Island Sound and the Miller property to the west.
2. The application includes a flagstone patio eight feet from the east property line. In this case, the proposed patio will be further away from the Darien River/Long Island Sound than the existing patio.
3. The Zoning Board of Appeals (ZBA) granted variance requests for this application in January 2013 as part of ZBA Calendar #50-2012. That approval is hereby incorporated by reference. The Zoning Board of Appeals had denied his initial variance request with the pool turned 90 degrees. The pool is now 41 feet from the west property line, and the pool and patio will be at

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grade. The Zoning Board of Appeals granted a variance for Section 364 regarding pool fence height.

4. During the Planning and Zoning Commission public hearing on January 15, 2013, the applicant's engineer, Mr. Frangione, suggested a condition of approval whereby he can provide any fence details to Planning & Zoning Commission staff. He also noted that the air conditioning units, which are now present on site will be removed as there is now a geothermal heating system on site, and that pool equipment needs to be elevated to be at or above the base flood elevation, but the proposed pool does not.
5. As part of this application, a 140 square foot rain garden is proposed to address stormwater quality. The patio will be slightly pitched towards the proposed rain garden to the southeast. The applicant's representative has done a test pit to ensure that the rain garden will work. Stormwater runoff will be treated for water quality before its discharged to Long Island Sound. Because of this property's specific location directly adjacent to Long Island Sound, there is no need to address stormwater quantity—but solely the quality of the stormwater.
6. The Commission notes the need for the applicant or property owner(s) to submit a Drainage Maintenance Plan for the proposed rain garden as shown on the Site Plan Sheet S1, and to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
7. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
8. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
9. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
10. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
12. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #138-D, Flood Damage Prevention Application #140-D, and Land Filling & Regrading Application #283 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, stormwater management, and other site development activity shall be in accordance with the following plans as submitted to the Commission:
 - Proposed Site Plan for Gavin & Melissa Baiera, Overall Site Plan, by Frangione Engineering, LLC, Sheet No. S1 last revised 1/10/13.
 - Proposed Site Plan for Gavin & Melissa Baiera, Details & Notes, by Frangione Engineering, LLC, Sheet No. S2, last revised 11/8/12.
- B. Due to the nature of this project, the Commission hereby waives the requirement for a performance bond.
- C. During the excavation, filling, regrading, and site work, the applicant shall utilize the sediment and erosion controls illustrated on the Site Plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including tree protection measures, as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they 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. As put forth by the applicant at the public hearing, the Commission hereby requires that final pool fence details be provided for review and action by the Planning and Zoning Director prior to the issuance of a Zoning and Building Permit for the pool.
- E. As part of this application, a Drainage Maintenance Plan shall be submitted for the record. This Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 26 Shipway Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to address water quality. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval and prior to the issuance of a Zoning or Building Permit for the pool.
- F. The applicant shall install the stormwater management system (the proposed rain garden) as shown on the submitted Overall Site Plan Sheet S1 (in Condition A, above). The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent tidal wetlands and other environmentally sensitive areas. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at such owner's expense and as quickly as possible.

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- G. Once the project is complete, and prior to November 13, 2013, the applicant shall certify in writing and/or photographs, and with an 'as-built' survey map that all work has been properly completed in accordance with the approved plans. This shall include written certification by the project's professional engineer that the rain garden has been installed according to the approved plans, and certification that all construction (the pool and pool equipment) complies with the Flood Damage Prevention Regulations.
- H. As always, authorization from the State of CT DEEP is required prior to any work proposed waterward of the coastal jurisdiction line in tidal, coastal or navigable waters of the state or in tidal wetlands. No work or disturbance is proposed within the DEEP jurisdiction, and adequate barriers must be installed and maintained to assure that no intrusion or disturbance occurs without obtaining the proper prior approvals.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- K. This permit shall be subject to the provisions of Sections 815, 829, 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 (February 12, 2014).

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

Chairman Conze then read the following agenda item:

Flood Damage Prevention Application #314, Land Filling & Regrading Application #289, Marc Heissan, 126 Five Mile River Road. Proposing to raise the existing single-family residence and construct an addition; and to fill and regrade, and perform related site development activities within a regulated area. (if public hearing is closed on February 12th).

After brief discussion, the Commission felt it would be appropriate to approve the project with the standard conditions and stipulations. The following motion was made: That the Planning & Zoning Commission approve the proposed house lifting project and site modifications subject to the following conditions and stipulations:

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1. The approved plans are entitled:
 - Heissan Residence Renovation Project 126 Five Mile River Road, by J.F.M. Engineering, Inc.,:
Proposed Site Improvement Plan, dated 02-04-2013, Drawing SE1.
Proposed Site Improvement Notes, dated 02-04-2013, Drawing SE2.
Proposed Site Improvement Details, dated 02-04-2013, Drawing SE3.
Proposed Site Improvement Details, dated 02-04-2013, Drawing SE4.
Drainage & Building Height Review, dated 02-04-2013, Drawing SE5.
2. Accompanying the Zoning and Building Permit applications and prior to commencing work, a certification shall be submitted from a licensed architect or engineer that verifies that the final design complies with the applicable flood damage prevention requirements.
3. By April 12, 2013 (within the next 60 days and prior to the issuance of a Zoning and Building Permit) a Drainage Maintenance Plan shall be prepared and 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 126 Five Mile River Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
4. In order to finalize this approval and prior to the issuance of a Zoning and Building Permit, you or the property owner must file a "Notice of Drainage Maintenance Plan" and "Special Permit form" in the Darien Land Records. Those forms can now be picked up from the Planning and Zoning Department and brought to the Darien Town Clerk, along with a \$53 filing fee for each form. They shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit.
5. 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 Zoning Compliance or Certificate of Occupancy for the house, the applicant or property owner shall submit an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with one foot contours, as well as the foundation location of the house.
6. As agreed by to the applicant and as shown on Sheet SE2 of the approved plans, the neighbors' reviewing engineer Barry Hammons shall be contacted to inspect the installation of the stormwater management system. The Darien Planning and Zoning Department shall be contacted as well.
7. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans, and as may be necessary due to site conditions. These 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.

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8. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final "as-built" survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
9. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for Zoning and Building Permit applications, a Septic System Abandonment Permit from the Darien Health Department, and a Sewer Connection Permit for the elevated/modified residence.

The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

Chairman Conze read the following agenda item:

Approval of Minutes

January 8, 2013 Public Hearing/General Meeting

Corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission approve the minutes as modified. The motion was made by Mr. Cunningham, seconded by Ms. Cameron and unanimously approved.

January 15, 2013 Public Hearing/General Meeting

A motion was made by Ms. Cameron, seconded by Mr. Cunningham to approve the minutes as submitted. All voted in favor, except Mr. Spain, who had not attended the meeting.

January 29, 2013 Public Hearing/General Meeting

A motion was made to approve the minutes as submitted. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved.

It was noted that the next meeting scheduled for the Commission is on February 26, 2013. The following motion was made: There being no further business, the meeting be adjourned. The motion was made by Mr. Voigt, seconded by Mr. Spain and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director