

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
FEBRUARY 26, 2013**

Place: Auditorium, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Cameron, DiDonna, Voigt

STAFF ATTENDING: Ginsberg, Keating (arrived at 10:00 p.m.)

RECORDER: Syat

Channel 79

Mr. Conze opened the meeting and read the first 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 CONTINUED TO MARCH 5, 2013 AT APPLICANT'S REQUEST.*

Mr. Conze noted that this public hearing item had been postponed to March 5, 2013 at the applicant's request. Mr. Conze then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations (COZR #1-2013), put forth by the Planning & Zoning Commission. Proposal to amend subsections 411 and 416 of the Zoning Regulations relative to the Noroton Bay District Residential Zone (R-NBD). These changes: 1) modify the Background and Purposes for this zone; 2) modify Maximum Building Height in feet in this zone from 30 to 33 feet; and 3) modify Maximum Building Coverage in this zone, by exempting the first six inches of eaves and up to a total of twenty square feet of stair landing and stoop overhangs.

Mr. Conze explained that the purpose of tonight's meeting is to start a conversation regarding potential zoning regulation amendments, with the goal being trying to preserve the community and also to provide flexibility to property owners who have to rebuild due to storm Sandy in October 2012 and the upcoming change in the Flood Insurance Rate Maps (FIRM) which will go into effect in July 2013.

Mr. Ginsberg then explained that the purpose of tonight's public hearing is to describe the proposal put forth by the Planning & Zoning Commission and to receive feedback. P&Z may close the public hearing tonight and deliberate and decide at a future meeting, or it may keep the meeting open to another night in March and then continue to receive information. The Commission will decide what next to do after hearing the testimony this evening.

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Mr. Ginsberg said that what precipitated this proposal is the new FEMA maps, which will take effect July 8, 2013, which raise required first floor elevations in Darien. Most affected is Noroton Bay, which goes from elevation 10 or 11 to elevation 14. Also, Storm Sandy on October 29, 2012 caused damage to many properties throughout Darien, including Noroton Bay, thus, many property owners are now in the process of rebuilding. The Commission believed that it was important to get a proposal put forth that addressed these developments. Some P&Z members met with the Chairman of the Zoning Board of Appeals to discuss that Board's ongoing response to Sandy.

Mr. Ginsberg explained that the proposal is outlined in a memo dated January 18, 2013. A copy of that memo was sent to all those living in the R-NBD zone. There are three parts to the proposal:

- a) Change the Background and Purposes subsection 411 by adding information about the recent storm, and proposed FEMA changes.
- b) Change in Building height subsection 416 #11—propose 33 feet in lieu of 30 now allowed
- c) Change in Building coverage subsection 416 note h.—exempt first six inches of eave and up to 20 square feet of stair landing and stoop overhang from coverage.

The proposed change to the Building Height maximum takes into account that lifting houses or rebuilding houses in this zone will require that any finished first floor be at or above elevation 15 (Darien requires that first floor elevations be at least one foot above the FEMA requirement of elevation 14), whereas now it is 10. Many properties are at elevation 7-8 now, requiring any finished first floor to be up 6-7 feet over the property's ground elevation. However, property elevations do vary, and as one person pointed out, each case is different.

The proposed change to Building Coverage is related to the fact that these properties are all within the flood zone. Because such houses need to be higher, doors leading to any finished floor space must be elevated. Thus, there will likely be more stairways in and out of a house due to the elevation requirements. The Commission believed that providing up to 20 square feet of stoop overhang would help account for some of these extra needs. Also, the Commission noted that many of the properties in Noroton Bay are at or near the 20% Building Coverage Maximum now. Thus by exempting 6 inches of building eave, this may allow for houses to provide eaves, and thereby look better, while not impacting coverage.

The Building Coverage change is particularly helpful to smaller lots, which may be at or above full building coverage presently. In the R-NBD zone, about 28 of the 76 existing lots are \leq .25 acres in size, or smaller.

Mr. Ginsberg then explained why these changes only affect the R-NBD Zone. This zone is the smallest residential zone in Town by size, and was established in 2003. It only contains 76+/- lots, ALL of which are in the flood zone. Thus, none of these properties is allowed to have a basement under the flood regulations. They range in size from .18 acres to .77 acres, and the Noroton Yacht Club which sits on more than an acre. It is generally seen as a zone that is "built out"—little or no new building lots can be created. There are no vacant lots other than those used by the Yacht Club for parking. It is also close to being "built out" in terms of building coverage—many houses within Noroton Bay are at or near the existing 20% maximum.

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Mr. Ginsberg said that one of the issues is whether these new regulations apply to lifting/elevating houses and/or to new construction? He noted that the regulations are currently written for both. He said that the Department has received some comments about the possibility of similar changes being proposed for other zoning districts. The response at a staff level has been that the changes are MOST applicable in this zone, since all lots are in the flood zone, and due to the small size of the zoning district, and the fact that so many of the houses in this zone were damaged in the recent storm. Staff would want to see the effects of possible implementation before trying it elsewhere. Relief is always available via the Zoning Board of Appeals.

Mr. Ginsberg noted that any regulation plan must be consistent with the Town Plan of Conservation and Development. He then read aloud two policies from the plan:

Policies in Chapter 3: *To reduce the potential for loss of life and property resulting from flood conditions, both for existing and future development, and to protect the natural flood carrying capacity of all floodplains.*

Policies in Chapter 6: *Continue to evaluate and consider amending the existing building coverage and height restrictions to maintain the character of the community.*

Mr. Ginsberg explained that numerous comments have been received, and these were given to the Commission on Friday in their packets. Other comments were given via e-mail earlier today (Tuesday). He then read aloud those comments received from State of CT DEEP, Southwestern Regional Planning Agency (SWRPA) and the Darien Zoning Board of Appeals as follows:
February 26, 2013

RE: COZR #1-2013, Proposal to Amend Darien Zoning regulations-P&Z Commission-[Noroton Bay District Residential Zone (R-NBD)]

Dear Mr. Ginsberg:

Thank you for the opportunity to comment on the above-referenced application. We have reviewed the proposal for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) CGS Sections 22a-90 through 22a-112, inclusive] and find no inconsistencies. We also commend the Commission for proposing zoning regulation amendments that encourage construction standards which reduce the potential for loss of life and property from flooding.

*Sincerely, Kristal
Kristal Kallenberg Dorismond
Environmental Analyst 2
Office of Long Island Sound Programs
CT DEEP*

*February 4th e-mail from Dr. Floyd Lapp
Dear Jeremy,*

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At last evening's SWRPA Board meeting, the SWRPA Referrals Report was unanimously approved, which included a Darien proposal to amend Darien Zoning Regulations put forth by the Darien P&Z (COZR #1-2013) Amendments to subsections 411 and 416, with the following comments:

"These proposed amendments are not likely to have any adverse intermunicipal impacts. However, the proposed regulations should be shared with the other coastal municipalities in the South Western region to stimulate additional best practices in response to Hurricane Sandy."

Please do not hesitate to contact us if you have any questions or concerns. Thank you.

Floyd Lapp, FAICP

Executive Director South Western Regional Planning Agency

February 6, 2013 memo from the Darien Zoning Board of Appeals:

Proposed Noroton Bay changes. The ZBA supports the proposed 6" coverage exemption for eaves townwide. And the ZBA supports the proposed exemption for stair landing/stoop overhangs in Noroton Bay. However the ZBA urges caution with allowing an extra 3' of building height. Recent ZBA hearings of variance applications on specific Noroton Bay properties has included consideration of the proposals' fit among their surrounding properties as well as observation of the overall general neighborhood character. This review appears to indicate that very comfortable and attractive houses with attic level storage or living space can be built within the current regulation limits for the neighborhood, including the applicable flood zone standards. Please see the attached diagram prepared by a ZBA member for your consideration.

Mr. Andy Glazer of Rowayton Avenue in Rowayton, Connecticut explained that he is a builder in Darien. He mentioned that the City of Norwalk allows 18 inches of house eave to be exempt from building coverage. He explained that eaves of houses do not affect the actual size of the house, but rather impact the roof of the house. He noted that there are height challenges to the properties within the R-NBD Zone due to FEMA requirements. The three foot to be allowed by the Commission would take houses higher but that height is required by FEMA. In Mr. Glazer's view, the challenge is to develop good design between the grade and the first floor to minimize the visual impact. He does not believe that the Zoning Board of Appeals is the place for property owners to get the additional height they need. He still wishes to maintain the look of the existing neighborhood. Mrs. Cameron then asked how the Kehrli house at 24 Waverly Road would have changed under this proposed regulation. Mr. Glazer responded that there would be a larger overhang to improve the look of the house. The Kehrli house was designed with four inch eaves and he would look to increase that to nine or ten inch eaves. It would also give a little breathing room on the building coverage for that house.

Mr. Peter Sikora of 10 Mayflower Road submitted two drawings regarding building height. He said that the existing building height maximum is fundamentally unfair to those living in Noroton Bay. The proposed changes to exempt the first six inches of building eaves from coverage calculation is great. He explained that the buildable volume is different for each lot. He said that under current building height maximums with the proposed new flood elevations to be in place in July 2013, property owners cannot get living space in the attic/3rd floor. Mr. Spain asked Mr. Sikora whether he was proposing a change in the place from which the Commission measures building height. Mr. Sikora responded that the Commission should measure building height based upon the FEMA required first floor. He said that increasing the maximum building height to 33 feet helps a lot. He believed that the proposed changes are a step in the right direction.

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Mrs. Yael VanHulst of 1 Baywater Drive then spoke. She said that she has a new house at one of the higher grades in the existing R-NBD Zone. One option for the Commission would be to set a standard 9 foot first floor ceiling and an eight foot high second floor ceiling, from elevation 14. This would then be the same for everyone. She said that the Commission should reconsider the way they treat elevated terraces, since that ruins the neighborhood aesthetic.

Attorney Wilder Gleason said that if the Commission is to grant relief on building height, they must require that the change is only for those rebuilding to the new FEMA first floor elevations. This will encourage property owners to meet the regulations. The purpose of the Zoning Regulations is to encourage compliance. He mentioned that property owners outside of Noroton Bay were also affected by storm Sandy as well as the change in the FEMA maps to go into effect in July 2013. He said that the Planning & Zoning Commission needs to give them relief also. Some lots in the R-NBD zone are as low as elevation 7, and need to have a first floor of elevation 14 or above. He believed that the height changes should be broadened to other parts of Town.

Mr. Gleason then referred to some recent Town of Westport changes, which take effect everywhere in Westport provided one meets the FEMA regulations. Mr. Gleason said the Town of Westport now measures from the average grade around the house and subtracts out the FEMA first floor requirements. A net actual number would be kept at 5 feet. He suggested that maybe the Town of Darien might consider a 3 feet cap. Mr. Gleason said one other item which must be taken into account is the fact that the Town of Darien requires that all first floor elevations be at least one foot above the base flood elevation required by FEMA. He said that applicants will want to avoid massive filling on their property. Mr. Conze had a question about whether there should be a 5 foot cap or a 3 foot cap. Mr. Gleason responded that the Commission could require a 33 foot building height maximum while relating that to the base flood elevations required by FEMA and capping that as well. He said that the Town of Westport applied the height change to the entire town.

Mr. Gleason said that he also supports the change which would exempt the first 6 inches of eaves from building coverage. He believed the 20 square feet which the Commission might be allowing to be exempt from building coverage for stoop overhangs is necessary. He again suggested considering expanding these building coverage changes to all properties within a flood zone. Mr. Gleason said that building height is now based upon the average finished grade around the house. This can include one foot of fill maximum. Mr. Spain noted that any proposed new regulations on building height or building coverage must be easily understandable and easily applied. Mr. Gleason believed that the existing definition of building height works well and that people need relief now. Mr. Spain questioned whether there should be different treatment between lifting existing houses and new houses to be constructed. Mr. Gleason said that the Darien Zoning Board of Appeals is very strict on building coverage and building height, especially for the construction of new houses. He said that the Zoning Board of Appeals does draw a distinction between lifting houses and new houses. The objective should be for property owners to be fully FEMA compliant. Mrs. Cameron then asked Mr. Gleason how much fill should be allowed on a property. Mr. Gleason responded that one needs to keep in mind the aesthetics of a property while ensuring any fill does not create flooding issues for neighbors.

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Mr. John Ferguson of 30 Plymouth Road then spoke. He said that property owners within this zoning district have to put in fill to get to the required higher FEMA elevation which will go into effect in July 2013. He suggested that one option would be to allow property owners within this zone to go to building heights of 30 feet above the base flood elevation in effect at the time. He added that the Commission allowing up to six inches of eaves to not count towards building coverage is great, but allowing up to 9 inches to not count would be better. He said that the twenty square foot exemption for stoop overhangs should be even greater. Mrs. Cameron noted that fill on properties can create a softening of the visual effect for the proposed higher residences.

Mr. Frank Maturo of 40 Baywater Drive said that there is a need for many property owners within Noroton Bay to rebuild. He said that prior to the mid-1980s building coverage was defined as being from outside wall to outside wall. Then, during the mid-1980s, it was changed to the edge of the dripline. There should be no difference between lifting a house and constructing a new house. He said that the eaves is a minor "give", and will have no impact on neighbors in this zone. Mr. Maturo explained that most of his property is at elevation 7+/-, and he must build so that his first floor elevation is at or above elevation 14.0. He believed that the allowable building height should have some relevance to existing grades. He also stated that there needs to be space on a top (third) floor. Mr. Maturo said that he wants 9 or 9-1/2 foot ceilings in his house on the first floor. He summarized by stating that the Commission should approve the proposal, allowing up to 33 feet of building height and allowing the building coverage exemption for up to six inches of eaves, and up to 20 square feet of covered stoop(s).

Mr. Peter Sikora then said that the proposal mentioned earlier this evening by Attorney Wilder Gleason would solve the problem.

Mr. Spain then said it would be helpful to have an historical synopsis of the practice of including eaves in calculating Building Coverage. Mr. Gleason believed that the change in the building coverage definition occurred in 1985.

In order to allow additional research by Department staff, and receipt of additional comments from the general public, the public hearing on the Regulation amendments was then continued to Tuesday, March 5, 2013 at 8:00 p.m. in Town Hall.

Mr. Conze then read the next agenda item:

Coastal Site Plan Review #162-A, Flood Damage Prevention Application #246-A, Land Filling & Regrading Application #292, Neil Foster & Janet Eick, 35 Plymouth Road. Proposing to elevate the existing residence and construct additions and alterations, and perform related site development activities within regulated areas. The subject property is located on the north side of Plymouth Road, approximately 500 feet north of its intersection with Shipway Road, and is shown on Assessor's Map #57 as Lot #38, in the R-1 Zone.

Attorney Wilder Gleason was present on behalf of the applicants. He explained that the proposed cost to repair damage from Storm Sandy in October 2012 is greater than 50% of the value of the existing residence (not including land). Thus, the property owners/applicants will be lifting the existing residence to have a first floor of elevation 16.0, and renovating the house. There are tidal

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wetlands now on the property. They must fill inside the foundation. Since they are in the flood zone, they are not allowed to have a basement. They will have a four foot high crawl space. The limit of the proposed fill is shown on the submitted plans. They will be re-doing the terraces and deck.

The property owners received a variance from the Zoning Board of Appeals (ZBA Calendar #62-2012), and approval from the Environmental Protection Commission (EPC #2-2013). The EPC required that there be a seven foot biofilter near the pond.

As part of this application, they will be lifting the existing residence by six feet. The final height will comply with the 30 foot height maximum now allowed in the R-NBD Zone.

Mr. Dennis Gillespie of 11 Juniper Road had questions regarding the height of the house after it is lifted. Attorney Gleason explained that the existing house is about 24 feet high. Mr. Conze confirmed that the building height is now calculated to be 24.9', and will be 29.7' after the proposed lifting.

There were no other questions or comments from the general public or Commission members. Mr. Spain then made a motion to close the public hearing on this matter. That motion was seconded by Mrs. Cameron, and was unanimously approved.

At about 9:25 p.m., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #281, Flood Damage Prevention Application #315, Mark & Heather Wright, 26 Waverly Road. Proposing to elevate the existing residence, construct additions and alterations to the residence, and perform related site development activities within regulated areas. The subject property is located at the southwest corner formed by the intersection of Waverly Road and Shipway Road, and is shown on Assessor's Map #55 as Lot #26, R-NBD Zone.

Architect Doug VanderHorn was present on behalf of the applicants. He explained that the 26 Waverly Road house was impacted by Storm Sandy in October 2012. The ZBA approved a variance (ZBA Calendar #57-2012). They will be lifting the existing residence. The grade on the property is about elevation 8.0. They will be lifting the house 4.3 feet to result in a new first floor elevation of 14.0. They will be enclosing the porch, adding a bathroom, and adding a generator, and constructing associated entry stairs. They will meet the building height maximum of 30 feet now allowed within this zone.

In order to address stormwater management, they have proposed two Cultec units, as there will be 200 additional square feet of new impervious surface. The owners may decide not to install the rear elevated terrace shown on the submitted plans. The terrace shown in the front of the house may also not be built.

Mrs. Cameron noted that the applicant may request a waiver for the required stormwater management. She said that if stormwater management is installed, however, that maintenance of said drainage system will be necessary. Mr. VanderHorn responded that they will not be installing the raised patio in the rear of the house, and they will be elevating the house to elevation 14.0. Mrs.

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Cameron mentioned that the FIRM going into effect in July 2013 will require this house to have a first floor of at least 15.0. Mr. VanderHorn confirmed that the property owner is aware of this requirement, but has decided to elevate to only 14.0. They will not be increasing the impervious surface on the property, since they have decided not to install the elevated terrace in the rear of the house.

There were no questions or comments from the general public regarding this application. Commission members had no further questions or comments. Mrs. Cameron made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain, and unanimously approved.

At about 9:35 p.m., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #282, Flood Damage Prevention Application #316, Land Filling & Regrading Application #293, Frank & Carrie Maturo, 40 Baywater Drive. Proposing to demolish the existing residence and construct new single-family residence, and perform related site development activities within regulated areas. The property is situated on the southwest side of Baywater Drive approximately 100 feet east of the north intersection of Plymouth Road and Baywater Drive and is shown on Assessor's Map #55 as Lot #87, and is located in the R-NBD Zone.

Architect Dave LaPierre of Robert Cardello Architects was present on behalf of the Maturos. He reviewed the changes to the submitted plans. He said that the terrace shown in pink has been eliminated, and replaced with a 4' x 5' stoop. The building coverage is in compliance with the Regulations now in effect. The proposed overhangs have been reduced from 12" to 6". They have eliminated the trash storage area and the covered door out of the garage. They have reduced the footprint by 36 square feet, resulting in a proposed building coverage of 19.98%. There will be filling on site to soften the look of the house. The road (Baywater Drive) has no drainage. Stormwater will be retained on the property, and they are adding three feet of fill up to the house.

Attorney Wilder Gleason said that the ZBA has determined that steps created by fill do not count towards building coverage. The raised terrace proposed by the Maturos was not approved by the ZBA. The ZBA did grant a height variance to allow the house to be 31 feet high. The ZBA also required that the property meet Building Coverage requirements. The property owners are trying to maximize the living space. They are just under the 20% building coverage maximum with a six inch eave. Mr. LaPierre noted that the top of the roof is flat.

There were no questions or comments from the general public regarding this application. Commission members had no questions or comments. Mrs. Cameron made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain, and unanimously approved.

Mr. Conze then read the next agenda item:

GENERAL MEETING

Amendment of Special Permit Application #98-A, Coastal Site Plan Review #219, and Flood Damage Prevention Application #237, Noroton Bay Property Owners, Inc., Nearwater Lane, R-NBD Zone. Request to repair deck; repair and rebuild the snack bar and community room building; and perform related site development activities within regulated areas. The subject property is located on the west side of Nearwater Lane, directly across from its intersection with Baywater Drive and is shown on Assessor's Map #56 as Lot #1 in the R-NBD Zone.

Mr. Ginsberg explained that although the agenda item lists this property as being in the R-NBD Zone, it is actually in the R-1 Zone. The reason it is before the Commission this evening is that it is a Special Permit use. The snack bar building received less than 50% damage from Storm Sandy, and thus, is not obligated to lift the building or demolish it and rebuild at a higher elevation. But the proposed work is considered an amendment to the existing Special Permit, thus requiring review and action by the Commission.

Mr. Peter Sikora said that the building is now atop a pier. It is a temporary seasonal building. His drawing shows three phases. They need review and approval from the State of CT Department of Energy & Environmental Protection (DEEP) for part of the work. He then explained the various phases proposed. Phase III needs DEEP review and approval. Mr. Conze asked whether they have considered future storms in their designs. Mr. Sikora responded that part of the pier was re-done in the same fashion in 2006, and that area was not damaged by storm Sandy.

Mr. Ginsberg then read aloud the comments received from the Darien Fire Marshal. Mr. Spain asked how things would look different. Mr. Sikora responded that it is proposed to be identical in look to existing conditions. Mr. Spain said that since the visual impact will be the same, then this should be okay from a Coastal Area Management standpoint, as they are just putting things back together. Mr. Sikora said that except for Phase III, it is also exactly the same use.

Mr. Ginsberg noted that the Commission may approve the parts of this application that do not require prior review or action by the State of Connecticut DEEP. Mr. Spain then made a motion to grant the various aspects of this application that do not require review or action by the State of CT. Mrs. Cameron seconded that motion, which was approved by 5-0.

Mr. Conze then read the next agenda item:

Flood Damage Prevention Application #320, Tim & Megan Malay, 20 Plymouth Road. Proposing to: elevate the existing house with additions, alterations, and modifications; establish a new driveway; associated filling/regrading; and to perform related site development activities within a regulated area. The subject property is on the southwest corner formed by the intersection of Shipway Road and Plymouth Road, and is shown on Assessor's Map #55 as Lot #71 and #72 in the R-NBD Zone.

Architect Chad Nehring was present on behalf of the Malays. He said that the project will have no impact on coastal resources. They propose sediment and erosion controls. The existing house is at elevation 9.0, and has 15.6% building coverage. The proposed elevated residence will conform

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with the regulations, and have a first floor elevation of 15.0. This will comply with FEMA requirements to take effect in July 2013. They will lift the house with a crawl space pitched to smart vents. All mechanical equipment will be at or above elevation 14.0. Archer Engineering has certified that the structure will comply with the flood regulations. The propane tank will be buried and strapped down. There will be new front entry steps, and they propose to relocate the existing driveway. The coverage will be going up to 18.6%. A drainage plan has been submitted for the record. A drainage maintenance plan will be prepared and submitted to staff.

Mr. Ginsberg noted that the Malays have had all neighbors within 100 feet of their property “sign off” on the plans. He then read aloud the comments received from the Darien DPW. Mr. Nehring noted that the attic is shallow-pitched. There were no further comments or questions from Commission members.

Mr. Spain then made a motion to approve the project with the following conditions:

1. That all work be in accordance with the plans submitted to and reviewed by the Commission.
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. By April 26, 2013 (within the next 60 days and prior to the issuance of a Zoning and Building Permit) a Drainage Maintenance Plan shall be prepared by your engineer 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 20 Plymouth Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit.
4. In order to finalize this approval and prior to the issuance of a Zoning and Building Permit, the property owner or applicant must now file a “Notice of Drainage Maintenance Plan” in the Darien Land Records. That form can now be picked up from the Planning and Zoning Department and brought to the Darien Town Clerk, along with a \$53 filing fee.
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 elevated house, the applicant 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. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted Drainage Plan and Details Plan and as may be necessary due to site conditions. These

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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.

7. 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.
8. 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 Disconnect and Sewer Connection Permit for the elevated residence.

If the Noroton Bay District Residential Zone (R-NBD) zoning regulations change relative to building height and/or building coverage, there would be an opportunity for Mr. Malay to return before the Commission for an amendment to these specifically approved plans.

That motion was seconded by Mrs. Cameron, and was approved by a vote of 5-0.

Mr. Conze read the next agenda item:

Discussion, deliberation, and possible decision on the following public hearing items (if those items are closed on February 26):

Coastal Site Plan Review #162-A, Flood Damage Prevention Application #246-A, Land Filling & Regrading Application #292, Neil Foster & Janet Eick, 35 Plymouth Road. Proposing to elevate the existing residence and construct additions and alterations, and perform related site development activities within regulated areas.

Mr. Spain made a motion to approve the project with the following conditions.

1. 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.
2. In order to finalize this approval and prior to the issuance of a Zoning and Building Permit, the owner must file a “Special Permit Form” in the Darien Land Records. That form can now be picked up from the Planning and Zoning Department and brought to the Darien Town Clerk, along with a \$53 filing fee.

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3. A detailed regrading design has 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 newly elevated house, the applicant 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.
4. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted Site Plan 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.
5. 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.
6. 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 Disconnect and Sewer Connection Permit for the residence. Conditions within the approvals of the Zoning Board of Appeals (in ZBA Calendar #62-2012) and the Environmental Protection Commission (in EPC #2-2013) are also incorporated herein.

If the Noroton Bay District Residential Zone (R-NBD) zoning regulations change relative to building height and/or building coverage, there would be an opportunity for the property owner to return before the Commission for an amendment to these specifically approved plans.

That motion was seconded by Mrs. Cameron, and was approved by a vote of 5-0.

Mr. Conze then read the next agenda item:

Coastal Site Plan Review #281, Flood Damage Prevention Application #315, Mark & Heather Wright, 26 Waverly Road. Proposing to elevate the existing residence, construct additions and alterations to the residence, and perform related site development activities within regulated areas.

Mr. Spain then made a motion to grant the project with stipulations. That motion was seconded by Mrs. Cameron, and was approved by a vote of 5-0. The stipulations are as follows:

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1. All work shall be in accordance with the plans submitted to and reviewed by the Commission with the exception that although the survey shows the proposed patio in the rear, that request was withdrawn.
(At the public hearing, Commission members noted that the owner is elevating the house so that the first floor is at elevation 14.0, which meets current FEMA requirements. The Commission staff explained to the applicant that in July 2013, the new FIRM which will go into effect will require property owners on Waverly Road to have first floor elevations of 15.0. The applicant explained that the property owner understood this and only wanted to elevate to 14.0, which meets the current regulations.)
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. Prior to the request for the Certificate of Zoning Compliance or Certificate of Occupancy for the elevated house, the applicant shall submit an as-built survey prepared by a licensed land surveyor, showing the final finished grades with one foot contours, as well as the foundation location of the house.
4. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted Site Development Plan 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.
5. 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.
6. 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 Disconnect and Sewer Connection Permit for the residence.

If the Noroton Bay District Residential Zone (R-NBD) zoning regulations change relative to building height and/or building coverage, there would be an opportunity for the property owner to return before the Commission for an amendment to these specifically approved plans. Also, if the property owner wishes to install an at-grade terrace or above-grade patio behind the house in the future, stormwater management may be required prior to installation.

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Mr. Conze read the next agenda item:

Coastal Site Plan Review #282, Flood Damage Prevention Application #316, Land Filling & Regrading Application #293, Frank & Carrie Maturo, 40 Baywater Drive. Proposing to demolish the existing residence and construct new single-family residence, and perform related site development activities within regulated areas.

It was noted that the plans were modified to remove the elevated terrace in the rear of the house, and replace it with a 4' x 5' stoop. Mr. Spain then made a motion to grant the project with the following stipulations.

1. All work shall be in compliance with the plans submitted to and reviewed by the Commission, including the elimination of the proposed rear raised terrace in the rear of the house, which was modified to a 20 square foot stoop during the public hearing.
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. By April 26, 2013 (within the next 60 days and prior to the issuance of a Zoning and Building Permit) a Drainage Maintenance Plan shall be prepared by the property owner's engineer 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 40 Baywater Drive to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit.
4. In order to finalize this approval and prior to the issuance of a Zoning and Building Permit, the owner must file a "Special Permit Form" and a "Notice of Drainage Maintenance Plan" 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 \$106 filing fee.
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 new house, the applicant 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. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted Site Plan 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

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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.

7. 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.
8. 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 a Demolition Permit, Zoning and Building Permit applications, and a Sewer Disconnect and Sewer Connection Permit for the residence. Take note of the various conditions of approval within the Zoning Board of Appeals’ decision in Calendar #61-2012, which was sent to you a few weeks ago.

If the Noroton Bay District Residential Zone (R-NBD) zoning regulations change relative to building height and/or building coverage, there would be an opportunity for the property owner to return before the Commission for an amendment to these specifically approved plans.

That motion was seconded by Mrs. Cameron, and was approved by a vote of 5-0.

At about 10:15 p.m., Mr. Conze then read the next agenda item:

Special Permit #34-I/Site Plan, Woodway Country Club, 540 Hoyt Street.

Request for extension of time to complete pool complex.

Mr. Ginsberg noted that a letter was received from Brian McMahon of Redniss & Mead requesting additional time to complete the project. Mr. Ginsberg recommended that the Commission grant the request. Mrs. Cameron then made a motion to approve the extension request. That motion was seconded by Mr. Spain, and was approved by a vote of 5-0.

Mr. Conze then read the next agenda item:

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

Mr. Conze asked if there was any “Other Business” to be considered by the Commission. Mr. Ginsberg said that there were two items he would like to discuss—the redevelopment of Allen O’Neill (The Heights at Darien), and the Ozanne project at 94 Rings End. Mr. Spain made a motion to go into Other Business to discuss those two items. That motion was seconded by Mr. Voigt, and was unanimously approved.

Allen O’Neill/The Heights at Darien

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Mr. Ginsberg explained that the developer hopes to have CO's for Phase I in April 2013. This will mean that much work will get done in March, including final grading, and required installation of plantings. They will also need to fix the two pieces of stockade fencing along the east property line near Fairfield Avenue. One of those pieces of fence will be changed to a locked gate, which will allow access by management to go behind the fence for cleanup work, on an as-needed basis. Mr. Ginsberg added that the developer will soon be sending a letter to Fairfield Avenue property owners about the possible removal of the existing chain link fence which sits atop the stone wall, which is generally the eastern property line of the property.

He explained that earlier this evening, the ARB was asked to review the change to white trim for the garbage enclosures. They did approve that request. P&Z members agreed with the ARB recommendation, and approved this request as well.

Ozanne, 94 Ring's End Road

Mr. Keating distributed 11" x 17" plans showing what the Commission approved as part of their recent Protected Town Landmark approval for this proposed residence, and the plans that were submitted for Zoning and Building Permits, which were different than the specifically-approved plans. He reviewed the changes with the Commission, stating that the rear elevation was slightly different. He noted that the Architectural Review Board (ARB) met earlier this evening, and the ARB believed that the windows should not extend to the floor on the two outside windows, but the other changes were satisfactory. A "hollowed-out" roof has been created for the new AC units. There is a need to screen the AC units to minimize any visual impact.

Mrs. Cameron then made a motion to approve the changes in the architectural plans, except that the rear windows should not extend to the floor. That motion was seconded by Mr. Spain, and was approved by a vote of 5-0. Commission members therefore accepted the ARB's recommendation to allow the changes to the previously approved plans, with that one exception.

As one final point, Mr. Conze said that Mr. Ginsberg recently sent a letter to the Board of Education/School Superintendent to keep the Planning and Zoning Commission in the loop regarding any upcoming changes considered for school properties. This may include work such as the enclosures for Dumpsters.

The meeting was then adjourned at 10:32 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director