

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MARCH 19, 2013**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating (arrived at 9:15p.m.)

RECORDER: Syat
Channel 79

Vice-Chairman Spain 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. CONTINUED TO MARCH 19, 2013 AT APPLICANT'S REQUEST. HEARING CANNOT BE FURTHER CONTINUED WITHOUT APPLICANT'S AUTHORIZATION.*

Mr. Ginsberg summarized the status of the application, noting that revised materials were received by the applicant on March 14, 2013. A two-page letter from professional engineer Todd Ritchie of GHD, Inc., on behalf of the neighbors was dated March 15, 2013. Mr. Ginsberg noted that numerous issues regarding stormwater management has been discussed between the applicants' engineer and the neighbors' engineer through the past 6 to 8 weeks and the number of pending issues has been reduced greatly.

Mr. Justin Livengood, the subject property owner, also summarized the status of the application. He explained that numerous changes had been made to the plans over time, including, but not limited to, the reduction of the impervious surface such that there is now only about 28 square feet of net, new impervious surface over the existing development. They have also added on-site detention and made changes to the septic system. They have added level spreaders in order to address water quality, and shown a variety of new, proposed plantings on the plans. Revised plans were given to both the neighbors and the neighbors' engineer, GHD Inc.

Peter Finkbeiner of SoundView Engineering then spoke on behalf of the applicants. He said a Cultec system was proposed and water quality is the issue, since they are in the lower one-third of the watershed. They now have at the Livengood property an existing basement and sump pump. There is no sump pump or footing drain proposed. He believes that the application meets all of the Town requirements.

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Mr. Michael Huebsch of 17 Cross Road explained that the subject property has known issues. He asked how a basement was possible without drainage issues. He was concerned about water during the construction process. He remains unconvinced about the basement and had questions about the drainage and the accommodation of displacement. Mr. Voigt asked how will the proposed water conditions be different than existing conditions.

Mr. Todd Ritchie of GHD, Inc. was present on behalf of Mr. Huebsch. He explained that the Livengoods have received no permission to tie into the Tokeneke Association catch basins in the road. He explained that water will bleed out into the street both during and after construction. He mentioned that in some occasions, waterproofing systems fail. Mr. Ritchie noticed the presence of a lot of ledge on the subject property. He mentioned that as part of the construction, water table changes could occur. Mr. Ritchie explained that the proposed Cultec units are very close to the proposed house, and the foundation will be exposed to flood waters. He said that the curtain drain discharge is at Elevation 8.0.

Mr. Spain asked whether the Commission could condition any approval on the fact that there be no sump pump on the Livengood property. Mrs. Cameron noted that the basement now has a sump pump and the Livengoods plan on adding 28 net new square feet of impervious surface. She questioned whether that impacts the Huebsch property across the street.

Mr. DiDonna then asked how the proposed underground detention would work. Mr. Ritchie explained that the septic system has been approved by the Darien Health Department. The old septic system will be used for infiltration. Mr. Huebsch explained that the existing septic system is near the road, so the Tokeneke Association will not approve use of that for any drainage. Mr. Ritchie said that, so far, nothing has been approved by the Tokeneke Association. He said that he has never seen Cultec units proposed to be so close to a house.

Mrs. Cameron asked if the basement is smaller than the existing basement. Mr. Ritchie believed that the situation needs to be analyzed in a technically sound way.

Architect Doug VanderHorn then submitted information on waterproofing on behalf of the Livengoods. He said that the proposed basement floor will be two feet higher than the existing basement floor. He mentioned that the water table fluctuates in the area. Any pumping of ground water would be for one to two weeks and hay bales will be used. He also noted that they could have a backflow preventor. Mr. DiDonna asked whether the basement waterproofing membrane is permanent. Mr. VanderHorn explained that the membrane is warranted for 5 years. Having the Cultecs close to the house is immaterial. He believed that they could pump water to the side yard or to the front yard.

Mr. Spain asked whether the proposed terracing elsewhere on the property could be installed before the work on the house which would then allow for some water pumping to occur to these areas during construction.

Mr. VanderHorn responded that they might not be able to pump to that elevation of the terraces. However, they may be able to put detainment uphill during one or two weeks during the foundation construction. Mr. VanderHorn said that they would be willing to accept a condition of approval of

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having no sump pump. Mr. Spain said that they should use on-site resources to fully absorb any water output.

Mr. DiDonna then asked about the size of the proposed Cultec unit. Mr. Finkbeiner responded that the Cultec units are each 7 feet long and 3 feet wide in a stone bed of 3 rows. The first proposal before the Commission had 6 Cultec units proposed and now they have 9 units proposed. The entire bed would have a dimension of 15' x 24'. Mr. Finkbeiner explained that the Cultecs are for roof drainage. Mr. VanderHorn said that the water will go from the Cultec unit around the basement. They may have 24 inches of crushed stone in the basement in order to pour a new basement at a higher level.

Mr. Voigt asked where the existing sump pump discharges. Mr. Finkbiener responded that that goes towards the front of the house. He said that there are no surface water issues now and he does not know the exact point of discharge. He added that the septic system complies with the Darien Health Code. The proposed rain gardens are going in above ground which will help attenuate water coming on to the property. Mr. Huebsch reiterated his concern about water during the construction process.

There being no further questions or comments from Commission members or the general public, Mr. Voigt made a motion to close the public hearing on this matter. That motion was seconded by Mrs. Cameron and unanimously approved. The public hearing was therefore closed.

Vice-Chairman Spain then read the next agenda item:

Flood Damage Prevention Application #322, Land Filling & Regrading Application #297, James & Diane Bosek, 12 Plymouth Road. Proposing to remove existing residence, construct a new residence with associated filling and regrading, and perform related site development activities within a regulated area. The subject property is located on the west side of Plymouth Road, approximately 350 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #67 & #68, in the R-NBD Zone. **WITHDRAWN.**

Vice-Chairman Spain announced that this application had been withdrawn.

Vice-Chairman Spain read the next agenda item:

Continuation of Public Hearing regarding Business Site Plan #285, Land Filling & Regrading Application #294, Loren Meyer & Paige Ridley, 164 Old King's Highway South. Proposing to establish a new commercial sales and service use generally requiring external storage or activity; construct an addition to the existing building, with a new driveway off Cross Street; construct associated parking and landscaping; and perform related site development activities. The subject property is located on the west side of Old King's Highway South, at its northwest corner formed by its intersection with Cross Street, and is shown on Assessor's Map #63 as Lot #19, in the SB Zone.

Mr. Ginsberg noted that Mr. Meyer was currently before the Architectural Review Board and he recommended that the Commission move onto the next agenda item.

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At 8:50 P.M., Mr. Spain then read the next agenda item:

Flood Damage Prevention Application #321, Land Filling & Regrading Application #296, Robert & Kristal Clasby, 16 Plymouth Road. Proposing to elevate the existing residence and construct raised terraces, place associated fill, and perform related site development activities within a regulated area. The subject property is located on the west side of Plymouth Road, approximately 175 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #69 & #70, in the R-NBD Zone.

Architect Lance Zimmerman explained that the proposal is to lift the house to have a first floor elevation of 15.0. The elevation would be one foot above the proposed FEMA required elevation of 14.0 which goes into effect in July of 2013. The applicant also proposes to rework the kitchen as part of this application. All mechanical units will be elevated to be at elevation 14 or above. The property is in AE Flood Zone so there is a need for flood vents which had been specifically called out on the plans. There will be planted terraces installed which are also shown on the plans. The house will have a final building height of 28 feet, and the building coverage will be 3,200 square feet. The house size is 3035 square feet without the proposed eaves. There is no proposed increase in the house footprint. The proposed crawl space would be self-draining.

Professional Engineer John Martucci was present on behalf of the applicant. He explained that there is no infiltration proposed. The applicant proposes to install a 6' x 24' rain garden in the front of the property, as well as in the back corner of the property to address water quality issues. There is no change in the drainage pattern from what it is today. Some fill will be needed for the proposed driveway.

Mr. DiDonna noted that the application said that they propose to add 745 cubic yards of fill on the lot. Mr. Martucci responded that that fill is mostly around the house. The front terraces will be planted and allow for some infiltration. Mr. Spain asked whether the fill would have impact upon the neighbors. There were no members of the public present to speak on the application.

Mr. Voigt noted the presence of a generator on the plans. Mr. Zimmerman responded that Mr. Clasby had received a ZBA variance for the location of the generator a few years ago. Although it is an existing generator, Mr. Clasby proposes to elevate it to comply with FEMA Regulations. Mr. Ginsberg questioned whether keeping the generator in the same location would need to go before the Zoning Board of Appeals or whether Mr. Zimmerman may be able to move the generator to a complying setback location.

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

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

Continuation of Public Hearing regarding Business Site Plan #285, Land Filling & Regrading Application #294, Loren Meyer & Paige Ridley, 164 Old King's Highway South. Proposing to establish a new commercial sales and service use generally requiring external storage or activity;

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construct an addition to the existing building, with a new driveway off Cross Street; construct associated parking and landscaping; and perform related site development activities. The subject property is located on the west side of Old King's Highway South, at its northwest corner formed by its intersection with Cross Street, and is shown on Assessor's Map #63 as Lot #19, in the SB Zone.

Mrs. Cameron asked Mr. Ginsberg whether Section 667.1 of the Darien Zoning Regulations would apply to this application. Mr. Ginsberg said he would have to check with Attorney Wilder Gleason who represents the applicant on this matter. If section 667.1 does apply, this would certainly affect the application standard. Mr. Ginsberg explained that Loren Meyer is here before the Commission tonight to get feedback from the Commission, then possibly go before the Zoning Board of Appeals in mid-April.

Contract purchaser Loren Meyer was present and distributed two revised sketches, one dated 3-7-2013 and the other dated 3-13-2013. Mr. Meyer explained that the 3-13 plan shows extra pavement on Cross Street and tree removal. This plan eliminates the need to back up onto and off of the roads. He then reviewed the email from Lt. Anderson of the Darien Police Department of March 19th. Mr. Meyer explained that the existing tree near the telephone pole on Cross Street is healthy and he emphasized that it may be cost prohibitive for him to move the existing telephone pole which is on Cross Street. He said that there would very rarely be a need for his employees to make a left turn out of the Cross Street driveway unless they are going to Tokeneke. He believes that the traffic load at the corner of Old Kings Highway and Cross Street does not increase due to this project since he would almost always be turning right from Cross Street to get onto the Boston Post Road.

Mr. Spain questioned whether the Darien Police Department would look favorably upon the 3-13 proposal. Mr. Meyer responded that his traffic would not be using that part of the road. Mr. Spain asked whether the existing stone wall along Cross Street would be moved.

Mr. Meyer said that, as part of setting up the entrance driveway onto Cross Street, the stone wall would be removed. Any underbrush, under 8 feet high will also be removed. The trees will stay, but be cleaned up. The plan is to remove the debris which now covers up the asphalt on Cross Street. He said that his surveyor missed the tree that is next to the telephone pole and therefore that is not shown on the submitted plans.

Mr. DiDonna noted that Old King's Highway South/Cross Street angle makes turning difficult and the sight lines are difficult in this area. Mr. Meyer responded that the stone wall will be removed as part of this application and the 30 foot sight line triangle at that corner would be opened up to improve sight lines.

Mrs. Cameron mentioned that the existing access on Cross Street is not good. She said that it is the intent of the Service Business Zone to have commercial building on Old King's Highway South. Mr. Meyer may need to provide a significant buffer for this application. She believed that this might not be the right use for this property. She explained that it would be a dangerous precedent to have a commercial use taking access on Old King's Highway South.

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Mr. Ginsberg summarized that, in staff's opinion, Mr. Meyer's application is a permitted principal use under Section 662a of the Darien Zoning Regulations. Mr. Meyer said that he was present this evening to receive feedback on his two schemes put forth. He explained that he prefers the 3-13 scheme as it keeps his driveway on Cross Street.

Mr. DiDonna asked whether it would be possible to turn around on the site and not back into the road. Mr. Meyer said that the garage, which is now part of the house, would be for small equipment storage. Mr. DiDonna asked whether there was any possibility of the driveway wrapping around the house. Mr. Meyer said that this could affect the driveway. Mr. DiDonna then asked about the location of the handicapped parking spaces. Mr. Spain confirmed that Spaces 5, 6 and 7 on the submitted scheme extend into the buffer on that 3-13 plan. Mr. Meyer reiterated that he wishes to keep the garage door facing Old Kings Highway South. Mr. Voigt said he was extremely sensitive to the possibility of the handicapped parking space becoming a de facto loading area.

Mr. Meyer said that he has presented to the Darien Traffic Commission. He believed that the 3-13 Plan is better for the Town because of safety reasons and has less impact on Old King's Highway South.

Mrs. Cameron asked whether the requirement under Section 1025.5 of the Darien Zoning Regulations has been raised. Mr. Meyer confirmed that he does need to submit planting details. Mr. Spain then mentioned the 3-7 scheme submitted by Mr. Meyer. Mr. Meyer said that, under that scenario, there would be no change to Cross Street, as the entrance would be onto Old King's Highway South.

Mr. Spain believed that that would be a negative to not have any clean-up of Cross Street. Mr. Spain asked whether, by cleaning up Cross Street, that would make the existing telephone pole more likely to be hit. Does it make any use of Cross Street less desirable? One suggestion put forth by Mr. Spain would be to keep Cross Street as is, but just clear the corner and widen the driveway.

Mr. Meyer explained that the stone wall is to come down in both schemes, but only near the corner in the 3-7 plan.

Mr. Spain said that one option could be to implement the 3-13 plan with less work on Cross Street. He said that under both plans, Mr. Meyer proposes to clean up the area in the corner to improve sight lines. Mr. Spain said that Mr. Meyer should be careful to avoid thrusting the existing telephone pole into the pavement of the street where it could affect traffic. Mr. Spain believed that the 3-13 plan is better since it impacts Old King's Highway South as little as possible.

Mr. DiDonna asked that sight line diagrams be prepared and asked Mr. Meyer to clarify what he will be doing to improve sight lines. Mrs. Cameron confirmed that this site could continue to remain a house in the Service Business Zone because that use is grandfathered in.

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Mr. Meyer believed he does not need to come before the Planning & Zoning Commission next week, however, he is asking for the Planning & Zoning Commission's support for one or both of the schemes.

Mrs. Cameron said that she needs to understand whether the proposal requires a Special Permit under Section 667.1. Mr. Voigt said that he believes the 3-13 plan is better than the 3-7 plan. Mr. Ginsberg said that Mr. Meyer might need a Special Permit under 667.1 and, if so, the Legal Notice would need to be amended. The Commission, and Mr. Meyer agreed to such an extension: to continue the public hearing to April 23, 2013 at 8:00 P.M. in Town Hall.

At about 9:50 p.m., Vice-Chairman Spain read the next agenda item:

Flood Damage Prevention Application #323, Land Filling & Regrading Application #298, Geoffrey & Katherine Benson, 17 Waverly Road. Proposing to elevate the existing residence, construct additions and alterations to the residence; place associated fill; and perform related site development activities within a regulated area. The subject property is located on the east side of Waverly Road, approximately 250 south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #30 & #31 in the R-NBD Zone.

Lance Zimmerman, Project Architect, explained that the project is to lift the existing house and construct additions and alterations. For example, they will need a new stairway to get from the ground level up to the new first floor level which would be at Elevation 15. The equipment pad will be raised to Elevation 14. The existing crawl space will be partially filled in and the special flood vents will be installed within the foundation. All of this work is being done to make sure that the house is compliant with the Flood Damage Prevention Regulations. Mr. Zimmerman said that they will be constructing one terrace to be on fill and one terrace will be at the existing ground level. After the house is raised, the building height will be 27 feet 8 inches above the average finished grade. He said that the proposed building coverage, including all the changes and the shed, is still less than 20% of the lot area. A new underground propane tank will be installed and that will be anchored into the ground to avoid flotation during a flood condition. He said that they will not be changing the slope of the ground, only adding a small amount of fill around the existing house.

John Martucci, Professional Engineer, explained that rain gardens are being added in the rear and front yards of the house to receive the rain water discharge from the additions and the driveway. He said that the garage will still be low, at Elevation 8.5, but the garage does not need to be elevated up to the expected flood level. Mr. Martucci explained that the top of the rain gardens are designed to allow any overflow of water to go into Waverly Road after a sufficient amount runoff has been absorbed into the ground. They are proposing to have the gutters and downspouts piped to the rain gardens in the front and rear of the house. He said that in heavy rain storms, the outer edges of the property, which will remain at the existing grades, will be very wet, but the house will not be in danger of flooding. He said that any time that flooding in the area is caused by the rise of Long Island Sound, there will be a noticeable increase in the flood waters on the property.

There were further questions or comments from the Commission, and no questions from the public regarding the application. The following motion was made: that the Commission closes the public

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hearing and will render a decision at a future meeting. The motion was made by Mr. DiDonna, seconded by Mrs. Cameron and unanimously approved.

Vice-Chairman Spain read the next agenda item:

Flood Damage Prevention Application #324, Charles & JoAnn Raymond, 11 Waverly Road.

Proposing to elevate the existing residence and construct associated stairs and elevated terraces; install HVAC units on a platform; and perform related site development activities within a regulated area. The subject property is located on the east side of Waverly Road, approximately 400 feet north of its intersection with Baywater Drive, and is shown on Assessor's Map #55 as Lot #34 in the R-NBD Zone.

Project Engineer Robert Frangione represented the applicants and explained that the existing house is currently at Elevation 9.5 and the current flood elevation in the area is elevation 10.0. They propose to raise the house 4 feet so that the first floor will be at Elevation 13.56. The proposed elevation of the new house will comply with the Flood Regulations in effect at this time. In order to get from the existing ground level to the new first floor, they will construct new stairs as shown on the submitted plans. Planters and landscaping areas around the house will capture much of the runoff on the street side of the building. An existing shed will be removed from the rear portion of the property and thus reducing the amount of impervious surface area on the site. He said that they are not planning to elevate the house to Elevation 15 which would be high enough to comply with the Flood Insurance Rate Map which will go into effect later this year. They will be complying with the current Flood Regulations now in effect.

Mr. Ginsberg said that the Zoning Board of Appeals has granted a variance and noted that the project will comply with the current Flood Damage Prevention Regulations, but will not comply with the draft Flood Insurance Rate Map to become effective in July 2013. He confirmed that they are actually reducing the total building coverage, but it will still be slightly over 20%, which is the maximum allowed in the Regulations. Mr. Frangione confirmed that his client will comply with the Zoning Board of Appeals variance.

There were no questions or comments from the public. The following motion was made: That the Commission closes the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

GENERAL MEETING

Vice-Chairman Spain opened the general meeting and read the next agenda item:

Flood Damage Prevention Application #301-A, Andrew & Jessica Black, 4 Shipway Road.

Proposing to: elevate the existing house with additions, alterations, and modifications; associated filling/regrading; and to perform related site development activities within a regulated area. The subject property is on the northwest corner formed by the intersection of Shipway Road and Waverly Road, and is shown on Assessor's Map #57 as Lot #29 in the R-NBD Zone.

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Chad Nehring, Project Architect, explained that this project involves lifting or elevating the existing house that is currently located at Elevation 9.3. In order to comply with the draft FEMA requirements, the new floor elevation will be at 15.0. They will utilize the existing footings and portions of the existing foundation. They will increase the height of the foundation by adding blocks after the house has been lifted in place. The new crawl space slab will be changed from Elevation 8.5 to 9.5 and smart vents will be inserted into the foundation to allow flood waters to equalize pressure in a flood condition. Mr. Nehring said that the engineer had certified the foundation design. He said that front entrance steps will be added and a new side terrace area will be added. The total building coverage will be 15.5% of the lot area. Mr. Nehring explained that 75 feet of Cultec units will be installed so that storm water collected from the impervious surfaces will be disbursed into the ground in most storms. There are two sets of Cultec units, one in the front yard and one in the side yard. Each is approximately 37.5 feet long. These Cultec units are designed to take the runoff from the roof and the driveway.

Mr. Ginsberg noted that the neighboring property owners had reviewed the plan and signed a form indicating that they were aware of the project and did not believe that there was a need for a public hearing. He said that there were some comments from the Public Works Department regarding the Drainage Plan. It is noted that the drainage is being processed for storm water quality, but is not being detained for a 50 year storm (which is not necessary due to the proximity of the project to Long Island Sound).

Mr. Voigt noted that the front elevation drawing shows approximately 6 feet of stone façade as a foundation. He wondered if it was possible to soften this view of this. Mr. Nehring said that the proposed landscaping has not been shown on the exterior elevation drawing of the proposed house. The client does plan to install landscaping in the area around the foundation and it will substantially soften the view of the foundation. He said that he would be pleased to submit a detailed plan of the foundation planting as a condition of approval.

Commission members agreed that a public hearing regarding this project is not necessary. The following motion was made: That the Commission approve the project subject to the usual conditions and stipulations, plus the further stipulation: Prior to the issuance of a Zoning and Building Permit, a Planting/Landscaping Plan shall be prepared and submitted to the Planning and Zoning Office for my review and action. The purpose of this plan is to soften the front elevation of the elevated house, which will be about six feet higher than the existing grade.

The motion to approve was made by Mrs. Cameron, seconded by Mr. DiDonna and unanimously approved.

Vice-Chairman Spain read the next agenda item:

Receipt of DJFL Lights report.

Mr. Spain noted that the Commission has received a report regarding the temporary installation of lights for the practice of the Darien Junior Football League. He said that Mr. Conze may want to discuss this matter at a future meeting and therefore it would not be appropriate to discuss it at this

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time. He said that a copy of the report is available in the Planning & Zoning Commission office for anyone to review.

Vice-Chairman Spain read the next agenda item:

Amendment of Special Permit Application #49-F/Site Plan, St. Paul's Episcopal Church, 471 Mansfield Avenue.

Request to construct a 12' x 8' shed for donation drop-off.

Mr. Ginsberg explained the project involves the installation of a 12' x 8' storage shed to be constructed on the property. There the shed would be used to collect donated items such as clothes which would be picked up by a private company on a weekly basis. He said that the shed location is shown on the submitted plot plan and it is more than 50 ft. from the nearest side lot line.

Ben DeGeorge of St. Pauli's Clothing explained that the collection company was formed many years ago. They will have a shed built on the site by a subcontractor. They currently have 653 sheds on many sites in the tri-state region. The donated clothes would be picked up on a weekly basis. On an annual basis, they will send a maintenance crew to take care of the shed and make sure that it is being properly maintained. He said that it is very important that on-site volunteers of the Church keep the shed neat on a daily basis.

Mr. Spain said that daily maintenance is a critical factor so that this type of shed does not become an unsightly or unsafe or unhealthy condition.

Mr. DeGeorge said that the shed will be taken care of and that the access door is locked. He said that they have never had a safety problem in 17 years of operation of this type of shed. Church members will be responsible for inspecting the shed and maintaining it on a daily basis.

After further discussion, the following motion was made: that the Planning & Zoning Commission approve the project on a one-year trial basis noting that maintenance on a daily and periodic basis is very important. The motion was made by Mrs. Cameron, seconded by Mr. DiDonna and unanimously approved.

Vice-Chairman Spain read the next agenda item:

Coastal Site Plan Review #255, Flood Damage Prevention Application #285, Hank & Joanna Hagey, 7 Tokeneke Trail.

Request for extension of time on previous swimming pool approval.

Mr. Ginsberg explained that in 2010 the Planning & Zoning Commission approved the redevelopment of the property including considerable work on the house and construction of a new swimming pool. Work on the house is nearly complete, but the Zoning & Building Permits for the pool have not been acted on by the applicant. The applicant is requesting that the Commission grant an extension, but since the Permit has expired, he wondered whether the Commission wants to grant an extension or a new formal application is necessary.

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Johanna Hagey explained that the location of the pool is the same as what had been approved by the Planning & Zoning Commission. The pool equipment will be in the general location as originally shown.

Mr. Spain explained that a new application would be processed expeditiously, but once an application has expired, it needs to go back through the process.

Commission members said they cannot extend Permit that has been expired and that a new application will have to go through the hearing and approval process before the Permit can be renewed.

Vice-Chairman Spain read the next agenda item:

Amendment of Business Site Plan #221-A, Little Red Schoolhouse, 21 Tokeneke Road.

Request for new tenant (JAM—Junior Art & Music) in a portion of the first floor (the Tokeneke Road side) of the existing building.

The proposed tenant is Junior Art & Music. Andrea Towey said that the music and art program will not create any kind of noise problem for the other tenants in the building or the neighboring tenants on the street. She said that the employees will park in the Center Street parking lot and there will generally be two or three instructors at the site at any given time. The clients will park on Tokeneke Road or in the Center Street parking area. She said that they are small classes for youths and adults, but the real focus is on ages 3 through 9. She said that they will encourage parking and drop-off on the Center Street side of the property. She said that parents must sign their children in and out rather than just drop them at the curb. She said that the classes are generally 60 to 90 minutes in length.

After further discussion, the following motion was made: that the Planning & Zoning Commission approve the proposed Junior Art & Music tenant in a portion of the first floor in accordance with the submitted material and the discussion at the public hearing. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

Vice-Chairman Spain read the next agenda item:

Discussion, deliberation and possible decisions on the following:

Coastal Site Plan Review #280, Land Filling & Regrading Application #291, Andrew & Alexis Sweet, 20 Beverly Place. Proposing to renovate existing rear terraces and walls and changes to landscape plantings, walks, and walls, and perform related site development activities within a regulated area.

The following motion was made: That the Commission waive the process of reading the draft Resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mrs. Cameron, seconded by Mr. Voigt and unanimously approved.

Commission members discussed the draft Resolution regarding the Sweet project at 20 Beverly Place. The following motion was made: that the Commission adopt the following Resolution to

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approve the project subject to certain conditions and stipulations as noted. The motion was made by Mrs. Cameron and seconded by Mr. DiDonna. All voted in favor of the application except Mr. Voigt who abstained because he had not been able to attend the public hearing regarding this matter. The motion was approved by a vote of 3 to 0 to 1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 19, 2013**

Application Number: Coastal Site Plan Review #280
Land Filling & Regrading Application #291

Street Address: 20 Beverly Place
Assessor's Map #62 Lot #81

Name and Address: Andrew & Alexis Sweet
Of Applicant & Property Owner: 20 Beverly Place
Darien, CT 06820

Name and Address of: Elizabeth Gonzalez-Guillot, Landscape Architect
Applicant's Representative: Doyle Herman Design Associates
125 Greenwich Avenue
Greenwich, CT 06830

Activity Being Applied For: Proposing to renovate existing rear terraces and walls and changes to landscape plantings, walks, and walls, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Beverly Place approximately 500 feet south of its intersection with Hawthorne Road/Salem Straits.

Zone: R-1

Date of Public Hearing: March 5, 2013

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: February 22 and March 1, 2013 Newspaper: Darien News

Date of Action: March 19, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
March 29, 2013

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

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- the proposed use and activities must comply with all provisions of Sections 400, 810, 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 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 application is to renovate existing rear terraces and walls and changes to landscape plantings, walks, and walls, and perform related site development activities within a regulated area. The subject property is served by an on-site septic system.
2. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
3. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
4. 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.
5. As required to be revised herein, the proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #280 and Land Filling & Regrading Application #291 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and other site development activity shall be in accordance with the following plans submitted to the Commission:
 - Sweet Residence Landscape Addendum: Exact Location of Septic Tank and Revised Wall, by Doyle Herman Design Associates, LLC, dated February 27, 2013, Sheet No. LA-1.0.
 - Sweet Residence 20 Beverly Place Site Development, Utility, and Landscaping Plan, by Doyle Herman Design Associates, LLC, dated January 18, 2013, Sheet No. L-1.0.

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- Sweet Residence 20 Beverly Place, Site Preparation, Erosion Control, and Construction Staging Plan, by Doyle Herman Design Associates, LLC, dated January 18, 2013, Sheet No. L-2.0.
 - Sweet Residence 20 Beverly Place, Grading and Drainage Plan, by Doyle Herman Design Associates, LLC, dated January 18, 2013, Sheet No. L-3.0.
- B. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the above-noted plans, and other measures as may be necessary due to site conditions, including tree protection. 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.
- C. Due to the limited amount of new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- D. As explained at the public hearing by the applicant's representative, there shall be no blasting, hoe-ramming or removal of ledge as part of this project. Any change will require further review and action by the Planning and Zoning Commission.
- E. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- F. Once the project is complete, and prior to November 19, 2013, the applicant shall certify in writing and/or photographs that all work has been properly completed in accordance with the approved plans.
- G. 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.
- H. 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. This includes, but is not limited to, approval from the Darien Health Department.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 19, 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 Special

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New Canaan, CT 06840

Activity Being Applied For: Proposing to remove existing paved terraces and steps and replace with new terraces and steps, and perform related site development activities.

Property Location: The subject property is located on the east side of Arrowhead Way, approximately 500 feet southwest of its intersection with Hope Drive.

Zone: R-1

Date of Public Hearing: March 5, 2013

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: February 22, 2013 & March 1, 2013 Newspaper: Darien News

Date of Action: March 19, 2013 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

March 29, 2013 Newspaper: Darien News

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

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- 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 remove existing paved terraces and steps and replace with new terraces and steps, and perform related site development activities. The subject property is served by an on-site septic system.
2. Rain gardens and other stormwater management have been proposed by the applicant. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the

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existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.

3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #290 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Nelson Residence 51 Arrowhead Way, by Keith E. Simpson Associates, Inc., various scales, dated January 18, 2013, Sheets No. L.001, L.002, L.101, L.201 through L.401.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. Great care must be taken to make sure that storm water runoff is directed into the drainage system, not toward the neighbors to the southwest of the site.
- D. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the Site Grading & Soil Erosion & Sediment Control Plan, and other measures as may be necessary due to site conditions, including tree protection. 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.
- E. By May 19, 2013 (within the next 60 days) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 51 Arrowhead Way to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work around the house.

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- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Zoning Compliance, 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 two foot contours, as well as the foundation location of the house.
- G. As explained at the public hearing by the applicant's representative, there shall be no blasting, hoe-ramming or removal of ledge as part of this project. Any change will require further review and action by the Planning and Zoning Commission.
- H. Prior to the request for the Certificate of Zoning Compliance the applicant shall submit verification from the project landscape architect in writing and/or photographs that all aspects of the site regrading and storm drainage system installation have been completed in compliance with the approved plans.
- 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 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 (March 19, 2014). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling, excavation or regrading work proposed as part of this application, or this approval shall become null and void.

Vice-Chairman Spain read the next agenda item:

Coastal Site Plan Review #156-B, Flood Damage Prevention Application #268-A, Land Filling & Regrading Application #282, Contentamiento, LLC, 12 Shennamere Road.

Proposing revisions to the previously approved plans.

Attorney Robert Maslan explained that the applicant is proceeding with construction and requests that several modifications be incorporated into the plans.

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Architect Falotico explained the proposed modifications including the installation of the pool equipment to be in an underground structure, the expansion of the porch and patio on the water side of the house, and the reduction of the front porches near the entrance courtyard. He said that there are other structural changes to the building that are technical in nature. In response to questions, he said that the new patio at the rear of the building will cover the existing ledge and will not require any additional blasting or removal of material.

Mr. Maslan said the terrace and porch at the rear of the house are within the 100 foot critical Coastal Area Management zone and are 12 to 9 feet closer to mean high water than the previously approved plan. He also noted that the modifications to the septic system design will actually mean less changes to the site.

The Commission members reviewed and discussed the revised plans and concluded that there would be no impact to the neighboring property owners nor any impact to any of the coastal resources. The following motion was made: that the Commission approve the requested modifications to the building and site design work. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

Vice-Chairman Spain then read the next agenda item:

Amendment to Coastal Site Plan Review #281 and Flood Damage Prevention Application #315, Mark & Heather Wright, 26 Waverly Road.

Request to elevate house one foot from that height approved on February 26, 2013 (to the height recommended by the Commission).

Mr. Ginsberg explained that the applicant has requested that this matter be postponed until a future date.

Vice-Chairman Spain then read the next agenda item:

Approval of Minutes

February 26, 2013 Public Hearing/General Meeting

Commission members discussed the draft minutes. The following motion was made: that the Commission adopt the Minutes subject to the typographical corrections. The motion was made by Mrs. Cameron, seconded by Mr. DiDonna and unanimously approved.

There being no further business, the meeting was adjourned at 11:05 P.M.

Respectfully submitted,

Jeremy Ginsberg
Planning & Zoning Director

David J. Keating
Assistant Planning & Zoning Director