

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

Place: Room 119, Town Hall

TIME: 8:00 P.M.

**PLANNING & ZONING COMMISSION MEMBERS ATTENDING:**

Conze, Spain, Cameron, DiDonna, Cunningham

**STAFF ATTENDING:** Keating

**RECORDER:** Syat

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Chairman Conze opened the meeting and read the first agenda item:

**PUBLIC HEARING**

**Special Permit Application #170-C/Site Plan, Joseph Criscuolo d/b/a Franks & Frites, 380 Heights Road.** Proposing to sell prepared foods for consumption on or off the premises in the space now occupied by Tasti-D-Lite (the northernmost space within the building) within the Noroton Heights Shopping Center. The subject property is situated on the north side of Heights Road approximately 350 feet northeast of its intersection with Hollow Tree Ridge Road and is shown on Assessor's Map #75 as Lots #22-#24, and is located in the DC Zone.

Joseph Criscuolo and Aldo Criscuolo explained that they propose to convert the existing Tasti-D-Lite into a restaurant that will serve hamburgers, hot dogs and french fries. Ms. Cameron referred to the memorandum from the Health Director David Knauf expressing concerns regarding the adequacy of the space for such a use. Aldo Criscuolo said he has met with Barry Bogle from the Health Department and has revised plans to address their concerns. Lyle Fishell, Project Architect, submitted two copies of the revised floor plan that had been given to the Health Department. Apparently there are still several items that need to be addressed but they are minor technical issues as opposed to unsolvable problems.

Mr. Spain said that it is necessary that the Health Code requirements, Building Code requirements and Fire Code requirements all be satisfied, but that the Planning & Zoning Commission does not want to have any use that impacts the surroundings. In particular, he mentioned the concern for properly addressing odor problems and trash issues. Aldo Criscuolo said that there will be no odor problems. In the past, there had been an odor problem from Heights Pizza which affected the adjacent clothing store. He said that that problem had been resolved many years ago, and has not been an issue since then. Mr. Spain said that it is critical that the odor control systems be maintained and that no problems be created in the beginning or in the long term. Mr. DiDonna asked about the trash pick up. Joseph Criscuolo said that trash pick up will be coordinated with other tenants within the complex. He also noted that a grease trap is being installed as required by the Town.

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

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Chairman Conze then read the following agenda item:

**Coastal Site Plan Review #283, Flood Damage Prevention Application #317, Land Filling & Regrading Application #295, Richard & Cornelia Thornburgh, 1 Candlewood Lane.** Proposing to raze the existing house, and demolish the pool, and construct a new house, septic system and pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Candlewood Lane, approximately 650 feet southeast of its intersection with Hawthorne Road/Salem Straits, and is shown on Assessor's Map #62 as Lot #71, in the R-1 Zone.

Attorney Robert Maslan represented the applicant and explained that this is one of two lots at the end of a point of land in the Salem Straits neighborhood. He submitted a packet of information and photographs including a March 13, 2013 letter that he had written to Zoning Enforcement Officer David Keating and it includes Mr. Keating's hand written response. Mr. Maslan explained that the property is an odd shape and there is a notch of the property that is actually used as a septic system for the adjacent lot. He reviewed the photographs of the existing conditions and explained that the existing house and swimming house will be removed. Ms. Cameron asked why the Schedule A of the application materials includes the old permits and deeds for the property. Mr. Maslan said that they are only historical documents and of no consequence regarding the pending development of the property. He said that they have obtained a setback variance to re-install a swimming pool between the waters edge and the proposed house. That variance is referred to as Calendar #5-2013.

Mr. Maslan explained that the area under the house is an enclosed area but is not a "basement" as defined by the Federal Emergency Management Agency and the Darien Flood Damage Prevention Regulations. It is allowed to be an enclosed area, provided it is used for parking a vehicle, storage, and/or access to the upper floor. The March 13, 2013 letter documents the fact that he has worked with the Zoning Enforcement Officer to make sure that the area is not a basement (which would be prohibited in the Flood Hazard Zone). Mr. DiDonna noted that the elevator comes down to no lower than elevation 14, which is the expected flood level on the Flood Insurance Rate Maps that will be adopted later in the year.

Mary Beth Wood, project architect, explained that the proposed house complies with all the Flood Damage Prevention Regulations and with the Zoning Regulations regarding maximum building coverage and maximum building height. The foundation will be reinforced and will have adequate flood pressure relief vents built into the portion of the foundation wall that is exposed to flood waters.

Mr. Conze questioned the septic system design. Doug DiVesta explains that there are two tanks, a holding tank and a separate pump chamber tank. He said that the first floor of the house will be at elevation 15.5 and that the waste line from that will exit the house at elevation 11. The bottom of the leaching fields will be at elevation 12, thus there is a need for a pump to force the effluent into the septic system. He said that some select fill will be necessary to install the septic system. All of this work will be inspected by the Health Department. In response to questions about the potential flooding of the septic system area, Mr. DiVesta indicated that on very rare occasions the septic system will be inundated by flood waters and when it does, the water will drain through and off the septic system and away as soon as the tide recedes. The leachate will not be carried out into Long

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Island Sound without passing through the ground first. He said that this is an acceptable design for properties that are in the Flood Hazard Area.

Commission members discussed the possibility of connecting to the sanitary sewer, which is now in the neighborhood. They agreed that the new septic system will be better than the old septic system that is on the property at this time, however, they felt it would be best if the project was connected to the sanitary sewer system. Mr. Maslan indicated that connecting to the sanitary sewer is not feasible because the caseway leading from the mainland to the two lots on the point was constructed using large boulders and the causeway is actually owned by the adjacent property owner. That owner has expressed concerns regarding the excavation that would be necessary within the causeway and the possible collapse of the driveway if the area is disturbed. Mr. Maslan explained that the Thornburghs had obtained basically a waiver or an exemption from the Department of Public Works and the Health Department to install a new septic system rather than connecting to the sanitary sewer. This is due to the difficulty of engineering and implementing the connection through the causeway.

Ms. Cameron questioned the adequacy of the septic system for so many bedrooms and bathrooms and large bath fixtures. Mr. DiVesta said that the Health Department is satisfied that the proposed design complies with all the Health Code requirements and limitations. He said that the holding tank and pump chamber create a system to avoid the leaching fields from being overwhelmed at any given time. Mr. Conze said that apparently the holding tank and pump chamber have a total capacity of 2,700 gallons, which would appear adequate to handle even large baths and fixtures within the house. Mr. DiVesta agreed that Mr. Conze's conclusion, but explained that the septic tank will almost always be full. He did say that the pump chamber will generally be empty until water is introduced from the holding tank and then it must reach a certain level before the pump turns on. Once the tank has been drained to near empty, the pump will turn off and will not turn on again until the tank is filled to the appropriate level.

Mr. Cunningham questioned the location of the pool equipment. He was told that it was shown on the plan and is far away from the pool. He wondered whether that would be adequate. Mary Beth Woods said that the pool contractors have indicated that the proposed pool equipment location would be acceptable and will function properly. She said that the pool equipment area will be enclosed and screened from view. She said that the pool equipment is not shown on the exterior elevation drawing of the house but a line indicating the top of the fence is included in the drawing.

Mr. DiDonna questioned the needed for blasting or hoe ramming to create the foundation of the house. Mr. Maslan said that very little such rock removal will be necessary because they are using the same location as the existing residence (which will be demolished). He did submit a revised landscape plan that has been updated to incorporate comments from the owner and various departments.

Assistant Director David Keating read aloud the comments from the Connecticut Department of Energy and Environmental Protection (CT DEEP) indicating that they do not find any conflicts between the proposed development and the Coastal Area Management policies. He also confirmed that the Zoning Board of Appeals had granted the above cited variance and noted that the Commission members had received a copy of that variance. He also mentioned that his handwritten

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note on the letter of March 13, 2013 was because the Zoning Board of Appeals was meeting regarding the matter on that same evening.

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

Chairman Conze then read the following agenda item:

**Coastal Site Plan Review #170-C, Flood Damage Prevention Application #291-A, Land Filling & Regrading Application #77-C, A.C. & Mandi Morgan, 4 Salem Straits.** Proposing to construct spa and associated retaining walls and patio; abandon existing septic system and connect to Town sewer; install buried propane tank; and perform related site development activities within regulated areas. The subject property is located on the south side of Hawthorne Road/Salem Straits, approximately 400 feet southeast of its intersection with Goodwives River Road, and is shown on Assessor's Map #62 as Lot #84, in the R-1 Zone.

Jeff McDougal from William W. Seymour & Associates explained that two previous applications had been submitted to the Commission regarding this property. The current project is much smaller than those two previous applications. The work now involves connecting to the sanitary sewer, installing a spa and replacing some retaining walls on the property. Mr. McDougal said that the rain garden that has been installed on the property is working very well. He noted that the old boat house on the property is to be demolished but the slab flooring of that boat house will be retained so that it will be the base for a new generator to be installed. The generator will be above the expected flood level. Commission members reviewed the plans of the proposed work.

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

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

**GENERAL MEETING**

**Flood Damage Prevention Application #326, Charles & Sara Ernst, 30 Waverly Road.** Proposing to elevate the existing residence, except the garage; construct additions and alterations; elevate the HVAC units; and perform related site development activities within a regulated area. The subject property is located on the west side of Waverly Road, approximately 165 feet north of its intersection with Shipway Road, and is shown on Assessor's Map #57 as Lot #30, in the R-NBD Zone.

Chris Hull, architect from CAH Architecture & Design, explained that questions had been raised about the building height and the grading in the front yard. He submitted revised drawings to illustrate changes that have been incorporated into the plan to make sure that the project complies

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with the Zoning Regulations. Commission members reviewed the revised plans. The existing structure on the residence will be elevated so that it is above the expected flood level. Utilities and mechanical equipment will be elevated to be above flood level and a slight amount of regrading will take place in the front and sides yards. The existing garage will not be elevated.

After further discussion, the following motion was made: That the Planning & Zoning Commission approve the project subject to the following stipulations and conditions:

1. The approved plans are entitled:
  - Map of Property owned by Charles N. & Sara L Ernst, 30 Waverly Road, by Land Surveying Services, LLC, dated Feb 13, 2013 with front retaining wall added by CAH.
  - Repair, Additions, Alterations, and Raising of: The Ernst Residence 30 Waverly Rd, by CAH Architecture and Design, dated 03.14.13, Sheets C and A1. Sheets A2 through A6 dated 03.26.13. These plans include the revisions of the roofline.
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. Also, make sure the engineer incorporates your changes to the site plan and that your (ie. The applicant's) plans all incorporate the changes to the roofline.
3. By May 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 30 Waverly 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 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.

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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 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 any sewer work is more than five feet from the house foundation.

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

Chairman Conze then read the following agenda item:

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

Requested amendment to previously approved plans relative to AC units, which are now proposed to be placed in the area which was to be the generator site.

Dave Campbell explained that the area designated on the previous approval for the new generator will now be used to install larger air conditioning equipment. The generator will be relocated to be adjacent to the transformer. Commission members reviewed the plans.

After a brief discussion, the following motion was made: That the Planning & Zoning Commission approve the installation of air conditioning units in the spot originally designated for the generator and with the understanding that the generator will be relocated to the area near the transformer. That motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

**Amendment of Coastal Site Plan Review #218-B, Robert Minicucci, 159 Long Neck Point Road.**

Request to elevate the top of an existing sea wall.

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Tom Ryder represented the applicant and explained that previous plans had been submitted to and approved by the Commission for the restoration of the shoreline area. The proposed work would increase the height of a wall to minimize the destructive aspects of the shifting sand, which are presently impacting on the recently restored tidal area. The wall is parallel to the causeway and is currently 6 inches to 24 inches in height. Increasing the height of the wall should minimize the drifting of the sand. Ms. Cameron mentioned that she is very pleased with the restoration work that has taken place so far and understands the need to protect the recently restored area. Mr. Ryder submitted revised plans that clarifies the increase in the height of the wall by approximately 12 inches. Mr. Cunningham said that portions of the right hand side of the wall seem to be older than portions on the left side. Mr. Ryder agreed and indicated that is why the height of the wall varies in different locations.

Mr. Keating read aloud the comments from the CT DEEP indicating that they had no objection to the project but also noting that the applicant must continue to work with the DEEP to make sure that any permits that are necessary are properly obtained.

The following motion was made: That the Planning & Zoning Commission approve the proposed increase in the wall height as shown on the submitted materials. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

Chairman Conze then read the following agenda item:

*Discussion, deliberation, and possible decisions on:*

**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. *HEARING CLOSED: 3/5/2013.*

Commission members read the draft resolution to adopt portions of the draft regulations. The portion of the proposed amendments regarding increasing of building height is specifically not adopted. The Commission wants to leave the building height limitations unchanged. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to adopt portions of the draft amendments. The motion was made by Mr. DiDonna and seconded by Mr. Spain. All voted in favor except Mr. Cunningham, who abstained because he had not been present for the hearing. The motion passed by a vote of 4 – 0 – 1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 26, 2013**

Application Number: Proposed Amendments to Zoning Regulations (COZR #1-2013)

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Application Put Forth by: the Darien Planning & Zoning Commission

Activity Being Applied For: 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.

Property is located at: These regulation amendments would only apply to properties within the Noroton Bay District Residential (R-NBD) Zone. This zoning district covers most, but not all of the properties within the Noroton Bay neighborhood.

Date of Public Hearings: February 26, 2013 continued to March 5, 2013

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

Publication of Hearing Notices  
Dates: February 15 & 22, 2013

Newspaper: Darien News

Date of Action: March 26, 2013

Action: ADOPTED IN PART WITH MODIFICATIONS (Building Coverage modifications)  
AND DENIED IN PART (Building Height modifications)  
THE REGULATION AMENDMENTS WHICH ARE GRANTED WILL TAKE EFFECT  
ON SUNDAY, APRIL 14, 2013 AT TWELVE NOON.

Scheduled Date of Publication of Action:  
April 5, 2013

Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject proposal put forth by the Planning and Zoning Commission is to amend subsections 411 and 416 of the Zoning Regulations relative to the Noroton Bay District Residential Zone (R-NBD). This was as outlined in a memo from Planning & Zoning Director Jeremy Ginsberg dated January 18, 2013.  
These proposed changes:
  - 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 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.
2. Two different factors have precipitated this proposal. The first is storm Sandy, which hit the Town of Darien in late October 2012, and damaged many houses in Noroton Bay and

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throughout Darien. Many property owners in the R-NBD zone are in the process of rebuilding. The second factor is the upcoming change in the Flood Insurance Rate Maps (FIRM) which will go into effect in July 2013. These new FIRM raise required first floor elevations in Darien for properties within the flood zone. Most affected is the R-NBD zone, which goes from elevation 10 or 11 to elevation 14. The Commission believed that since rebuilding is in process, it was important to get a proposal put forth at this time.

3. The Commission's considerations are to preserve the Noroton Bay community and also to provide flexibility to property owners who are in the process of rebuilding and meeting FEMA first floor requirements both existing, and to go into effect in July 2013.
4. 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 covers most, but not all of the area known as Noroton Bay. 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, with the only exception being 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.
5. The change to the Building Height maximum was proposed to address the fact 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 or 11. Many properties have a ground elevation in the range of 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 each case is different.
6. The proposed Building Coverage change is also 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 total stoop overhang would help account for some of these extra needs. Also, the Commission here took particular note that many of the properties in Noroton Bay are at or near the 20% Building Coverage maximum now. Thus by also exempting 6 inches of building eave, this may allow for houses to provide eaves, and thereby look better, while not impacting coverage.
7. One of the purposes of the Building Coverage change is to both keep the general aesthetic of the neighborhood as well as to acknowledge that for houses that are elevated to meet the flood regulations, additional stairways will likely need to be created to provide access to doorways on the structures (which would also likely need to be at a higher grade). It would be appropriate for such doorways to have a covered landing. It was specifically mentioned at the public hearing that the twenty square feet of covered landing may be in the form of more than one covered landing, as long as the total does not exceed twenty square feet. A covered landing may also

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include an eave, which, if not exceeding six inches, would also not count towards building coverage in this zone.

8. 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 less than or equal to .25 acres in size, or smaller.
9. One of the issues is whether these new regulations apply to lifting/elevating houses and/or to new construction. In addition, during the public hearing process, comments were received about the desire of some property owners to see similar changes proposed for other zoning districts that included flood zone parcels. The response at a staff level was 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, and many of the lots are so small. Staff would want to see the effects of possible implementation before trying it elsewhere. It was noted that relief is always available via the Zoning Board of Appeals if a hardship can be shown.
10. At the public hearing, a number of housing lifting and new house approvals within this zone and near this zone were reviewed with the Commission. It was noted that in all but one case, houses complied with the thirty foot height regulation now in effect in this zone.
11. At the public hearing, Planning and Zoning Director Jeremy Ginsberg explained that any regulation plan must be consistent with the Town Plan of Conservation and Development. He 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.
12. The Commission finds that many, if not all, property owners within the R-NBD zone may be able to lift or rebuild their house while complying with building height maximums now in effect. The Commission also finds that by exempting the first six inches of eaves from building coverage calculation within this zone, additional flexibility is given to property owners in this district when lifting or rebuilding their houses. Testimony was presented that while eaves now count towards building coverage, they are not enclosed spaces, and are seen generally as improving the look and aesthetics of a house, and do not affect the perceived bulk of a house.
13. As part of this application, numerous comments were received from the State of CT DEEP, the Southwestern Regional Planning Agency (SWRPA) and the Darien Zoning Board of Appeals (ZBA). The ZBA comments were outlined in a February 6, 2013 memo, portions of which were as follows:  
*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*

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*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.*

14. A number of property owners, builders, and others spoke at the public hearings held on February 26 and March 5. At the public hearing it was noted that since storm Sandy, only one height variance has been applied for before the Zoning Board of Appeals.
15. Section 8-3(d) of the Connecticut General Statutes requires that notice of this decision be published in a local paper, and a copy of the regulation change be filed with the Town Clerk prior to the zoning regulation amendments taking effect.

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NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding modifications to subsections 411 and 416 are ADOPTED IN PART WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, APRIL 14, 2013 AT TWELVE NOON AND DENIED IN PART.

The proposed amendments to subsections 411 (regarding Background and Purposes of the R-NBD Zone), and subsection 416 adding note h (changes to maximum building coverage) in the R-NBD zone are ADOPTED WITH MODIFICATIONS. The Commission finds that these amendments, as modified, are consistent with the 2006 Town Plan of Conservation and Development as amended.

The proposed amendments to subsection 416 #11 regarding building height is DENIED. The Commission believes that requests for building heights greater than 30 feet can be taken before the Zoning Board of Appeals (ZBA) and determined on a case-by-case basis. While the Commission acknowledges the need for property owners to elevate and/or rebuild their houses entirely, due to the important and sensitive nature of building height, the Commission believes that an increase in overall building height for the entire zoning district may impact the character of this neighborhood.

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(The inside cover page of the Zoning Regulations, the Table of Contents, and Appendix C-Schedule of Amendments also shall be modified accordingly)

The approved wording for these Sections is as follows:  
*New wording in bold, deletions in strikeout:*

- 1) Modify subsection 411 Background and Purposes in the Noroton Bay District Residential Zone, by adding a new paragraph after the third paragraph.

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During the ensuing years from 1957, many variance applications were received for proposed construction of additions to existing residences or replacement residences because virtually none of the lots in this neighborhood complied with the one-acre minimum lot size, lot width, or lot depth requirements of the R-1 Zone. None of the structures complied fully with all of the building setback and yard requirements. Enactment of Flood Damage Prevention Regulations has required many structures to be elevated as substantial renovations or new construction was proposed. The Flood Damage Prevention Regulations require that the lowest floor (including basement) be at least one foot above the expected flood level. The flood level is generally one to three feet above the existing ground level.

**In late October 2012, a storm affected many houses in Noroton Bay, resulting in flood damage to many of the residential structures and the Noroton Yacht Club. In December 2012, FEMA noted that new Flood Insurance Rate Maps (FIRM) would take effect in mid-2013. This would result in most of Noroton Bay, which is now in the AE elevation 10 or AE elevation 11 zones to become AE elevation 14, thus requiring additional elevation of any first floor finished space. This modified FEMA mapping affects almost every house within this zoning district (some of the waterfront properties are currently in the VE-14 flood zone and will not be impacted by the proposed new FIRM). Basements are not permitted within the flood hazard zones. The Commission wants to encourage property owners to comply with all of the flood damage prevention requirements. Because of the unique nature of this zone, with relatively small lots and all structures within a flood zone, which flood zone elevation is generally four feet or more higher than the adjacent streets, special provisions are included, exempting the first six inches of eave and up to twenty square feet of stair landing/stoop overhangs from Building Coverage, making it easier for property owners to elevate their house to meet applicable FEMA standards.**

- 2) Modify subsection 416 Area and Bulk Requirements #12 and add a new note “h” in the Noroton Bay District Residential Zone (R-NBD), by exempting the first six inches of eave and up to a total of twenty square feet for overhangs for stairs, stair landings, and stoops from Building Coverage in the R-NBD Zone.

416. Area and Bulk Requirements

The requirements listed for the Noroton Bay District Residential Zone (R-NBD) shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

Noroton Bay District	
1. Minimum Lot Area (Square Feet) (See notes c, e)	25,000

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2. Minimum Width (See notes a, b, c)	80
3. Minimum Frontage (See notes a, c, f, g)	50
4. Minimum Depth (See notes a, c)	100
5. Minimum Front Yard (See notes a, b) As measured from the front property line(s).	30
6. Minimum Side Yard: Least One	15
7. Minimum Side Yard: Total of Two (See notes b, c)	30
8. Minimum Rear Yard (See note b)	25
9. Accessory Structures (See note d and g)	
9A. Minimum Distance from Front Lot Line	30
9B. Minimum Distance from Side Lot Line	15
9C. Minimum Distance from Rear Lot Line	25
10. Maximum Height in Stories	2 ½
11. Maximum Height in Feet	30
12. Maximum Building Coverage (as percentage of lot area) (see note h)	20%

- a. See Sections 334 and 339 for application of "minimum width".
- b. See Section 333.
- c. See Section 385 where lots are of non-conforming dimensions.
- d. Detached accessory structures within five feet of a principal structure or with any portion of the structure over eight (8) feet in height shall observe the same setbacks as for main buildings.
- e. See Section 335.
- f. See Section 332.
- g. Special Provision for Utility Sheds.
  - No more than one utility shed shall be permitted on each property provided:
    - 1. The maximum width of the shed shall be 8' (eight feet) and the maximum length of the shed shall be 8' (eight feet);
    - 2. The highest part of the roof shall not be more than 8' (eight feet) above the highest point of the adjacent ground;
    - 3. The shed must comply with the front yard setback, and shall be not less than 2' (two feet) from the side lot line and not less than 2' (two feet) from the rear lot line, and on properties adjacent to coastal waters the shed shall comply with the 25' (twenty-five foot) rear yard setback;
    - 4. The shed must comply with the Flood Damage Prevention requirements;
    - 5. The shed must comply with all Zoning and Building Permit requirements and will be counted as part of the maximum permitted building coverage.
- h. In the R-NBD Zone, the first six inches (6") of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage.**

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Chairman Conze then read the following 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. *HEARING CLOSED: 3/19/2013. DECISION DEADLINE: 5/23/2013.*

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

Commission members discussed the draft resolution and the project to elevate the existing house. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Conze and Mr. Cunningham who had not been present for the public hearing regarding this matter. The motion was adopted by a vote of 3-0-2.

The adopted resolution reads as follow:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 26, 2013**

Application Number: Flood Damage Prevention Application #321  
Land Filling & Regrading Application #296

Street Address: 16 Plymouth Road  
Assessor's Map #55 Lot #69 and #70

Name and Address of Property Owner: Robert & Kristal Clasby  
16 Plymouth Road  
Darien, CT 06820

Name and Address of Applicant  
And Applicant's Representative: Lance Zimmerman  
Zimmerman Architecture  
14 Cliffview Drive  
Norwalk, CT 06850

Activity Being Applied For: Proposing to elevate the existing residence and construct raised terraces, place associated fill, and perform related site development activities within a regulated area.

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Property Location: The subject property is located on the west side of Plymouth Road, approximately 175 feet south of its intersection with Shipway Road.

Zone: R-NBD

Date of Public Hearing: March 19, 2013

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

Publication of Hearing Notices

Dates: March 8 & 15, 2013

Newspaper: Darien News

Date of Action: March 26, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
April 5, 2013

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 416, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment 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. This application is 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 residence is now served by public water and public sewer service.
2. The house will be elevated to have a first floor of at least elevation 15.0, which is at least one foot greater than the FEMA Flood Insurance Rate Maps (FIRM) which will go into effect in July 2013. All mechanical units will be at or above elevation 14.0, which will also comply with the FIRM going into effect in July 2013. The existing generator location was previously approved by the Zoning Board of Appeals to be within the required sideyard setback area. The proposal is to elevate the generator to be at or above the expected flood level.

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3. Rain gardens in the northwest corner of the property and along the Plymouth Road street frontage, as well as 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 existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
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. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 Flood Damage Prevention Application #321 and Land Filling & Regrading Application #296 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the modification noted below, the elevation of the existing residence, associated construction, installation of stormwater management, and other activity shall be in accordance with the plans entitled:
  - Site Plan prepared for Clasby Residence #16 Plymouth Road, prepared by LBM Engineering, LLC, scale 1"=10', dated February 22, 2013 and last revised 3/13/2013.
  - Proposed Site Plan, Clasby Residence, by Zimmerman Architecture, scale 1"=10', dated 2-15-13, Drawing No. SP1.
  - Clasby Residence by Zimmerman Architecture, dated 2-15-13, Drawing No. A1-A6.
  - Zoning Location & Topographic Survey 16 Plymouth Road, prepared for Robert J. Clasby Krista L. Clasby, by William W. Seymour & Associates, scale 1"=10', dated February 1, 2013.The proposal to elevate the generator above the expected flood level is approved by the Commission, provided it is relocated to comply with the setback requirements, or the applicant obtains approval from the ZBA to have it in the proposed location.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house additions comply with the applicable flood damage prevention requirements.
- C. By May 26, 2013 (within the next 60 days) and prior to the issuance of Zoning or Building Permits for the house additions, 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. This plan shall include both the existing and proposed drainage system. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The

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Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 16 Plymouth Road to maintain the on-site drainage facilities, and will alert future property owners of the 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 60 days of this approval.

- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, 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.
- E. 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 site grading, building construction and the storm water management (drainage) system have been completed in compliance with the approved plans and the flood damage prevention regulations. Also prior to a Certificate of Occupancy, a final as-built survey shall be submitted by a licensed Land Surveyor certifying the final construction meets all building setbacks and building coverage maximums, and final work is in compliance with local regulations.
- F. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- G. 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.
- H. 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.
- 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. This includes, but is not limited to, the requirement for Zoning and Building Permit

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applications, and possibly Sewer Disconnection and Connection Permit for the elevated/modified residence.

- 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 26, 2014). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan must be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit.

Chairman Conze then read the following 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. *DECISION DEADLINE: 5/23/2013.*

Commission members discussed the draft resolution and the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Conze and Mr. Cunningham who had not been present at the public hearing. The motion was adopted by a vote of 3-0-2. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 26, 2013**

Application Number: Flood Damage Prevention Application #323  
Land Filling & Regrading Application #298

Street Address: 17 Waverly Road  
Assessor's Map #55 Lot #30 and #31

Name and Address of Property Owner: Geoffrey & Katherine Benson  
17 Waverly Road  
Darien, CT 06820

Name and Address of Applicant  
And Applicant's Representative: Lance Zimmerman, AIA  
Zimmerman Architecture  
14 Cliffview Drive  
Norwalk, CT 06850

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Activity Being Applied For: 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.

Property Location: The subject property is located on the east side of Waverly Road, approximately 250 south of its intersection with Shipway Road.

Zone: R-NBD

Date of Public Hearing: March 19, 2013

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

Publication of Hearing Notices

Dates: March 8 & 15, 2013

Newspaper: Darien News

Date of Action: March 26, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
April 5, 2013

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 416, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment 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. This application is 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 residence is now served by public water and public sewer service.
2. The house will be elevated to have a first floor of at least elevation 15.0, which is at least one foot greater than the FEMA Flood Insurance Rate Maps (FIRM) which will go into effect in

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July 2013. All mechanical units will be at or above elevation 14.0, which will also comply with the FIRM going into effect in July 2013.

3. Rain gardens have been proposed in the southeast corner of the property and along the Waverly Road street frontage to address stormwater management. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
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. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 Flood Damage Prevention Application #323 and Land Filling & Regrading Application #298 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Elevation of the existing residence, associated construction, installation of stormwater management, and other activity shall be in accordance with the plans entitled:
  - Site Plan prepared for Benson Residence #17 Waverly Road, prepared by LBM Engineering, LLC, scale 1"=10', dated February 22, 2013 and last revised 3/13/2013.
  - Zoning Location 17 Waverly Road, prepared for Geoffrey S. Benson Katherine G. Benson, by William W. Seymour & Associates, scale 1"=20', dated January 25, 2013, and received March 8, 2013.
  - Benson Residence by Zimmerman Architecture, dated 3-7-13, Drawing No. A1-A5.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house and its additions/alterations comply with the applicable flood damage prevention requirements.
- C. As part of the submitted application materials, a Drainage Maintenance Plan from LBM Engineering LLC was prepared. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit, but not later than May 26, 2013. This Notice will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the 3/13/2013 Site Plan, and any additional measures as may be necessary due to site conditions.

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These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, 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.

- E. 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 site grading, building construction and the stormwater management (rain gardens) have been completed in compliance with the approved plans and the flood damage prevention regulations. Also prior to a Certificate of Occupancy, a final as-built survey shall be submitted by a licensed Land Surveyor certifying the final construction meets all building setbacks and building coverage maximums, and the finished floor elevation of the residence is at or above elevation 15.0, and the elevation of all mechanical units is at or above elevation 14.0, and final work is in compliance with local regulations.
- 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. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- H. Great care must be taken to make sure that storm water runoff is directed into the drainage system, not toward the neighbors.
- 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. This includes, but is not limited to, the requirement for Zoning and Building Permit applications, and possibly a Sewer Disconnection and Connection Permit from Darien Sewer Services for the elevated/modified residence if that work is more than five feet from the foundation of the house.
- 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

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within one (1) year of this action (March 26, 2014). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan must be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit.

Chairman Conze then read the following 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. *HEARING CLOSED: 3/19/2013. DECISION DEADLINE: 5/23/2013.*

The draft resolution was discussed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Spain and seconded by Mr. DiDonna. All voted in favor except Mr. Conze and Mr. Cunningham who were not present for the public hearing. The motion was adopted by a vote of 3-0-2. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 26, 2013**

Application Number: Flood Damage Prevention Application #324

Street Address: 11 Waverly Road  
Assessor's Map #55 Lot #34

Name and Address of Property Owner: Charles & JoAnn Raymond  
And Applicant: 11 Waverly Road  
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the east side of Waverly Road, approximately 400 feet north of its intersection with Baywater Drive.

Zone: R-NBD

Date of Public Hearing: March 19, 2013

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

Publication of Hearing Notices  
Dates: March 8 & 15, 2013                                      Newspaper: Darien News

Date of Action: March 26, 2013                                      Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
April 5, 2013                                      Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 416 and 820 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 redevelopment 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. This application is 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 residence is now served by public water and public sewer service.
2. As described by the applicant's professional engineer Rob Frangione at the March 19, 2013 public hearing, the house will be elevated to have a first floor of at least elevation 13.56, which is four feet higher than the existing residence. This elevation of 13.56 is at least one foot greater than the FEMA Flood Insurance Rate Maps (FIRM) which are now in effect, showing the subject property within flood zone AE10, and thus, the proposal complies with all current flood regulations. All mechanical units will be elevated to be at or above elevation 12.5, which will also comply with the current FEMA requirements.
3. The Commission notes that new FIRM will go into effect in July 2013, requiring this residence to have a first floor elevation of at least 15.0. While the proposal complies with all current requirements, the Commission encourages, but does not require, the property owner to elevate to the July 2013 standard.
4. Zoning Board of Appeals (ZBA) Calendar #7-2013 was granted for this project on March 13, 2013. That approval is hereby incorporated by reference.

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5. Although there is a net reduction of approximately 129 square feet of impervious surface as part of this redevelopment, stormwater management has 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 existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
6. 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.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #324 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, installation of stormwater management, and other activity shall be in accordance with the plans entitled:
  - Overall Site Plan, Proposed Site Plan for Joann S. & Charles V. Raymond, 11 Waverly Road, by Frangione Engineering, LLC, dated March 12, 2013, Sheet No S1.
  - Details & Notes Proposed Site Plan for Joann S. & Charles V. Raymond, 11 Waverly Road, by Frangione Engineering, LLC, dated March 12, 2013, Sheet No S2.
  - Raymond Residence 11 Waverly Road, Structural Engineering by David Seymour PE, Architectural Design by: Beth Harrington-Howes, LLC, dated February 11, 2013, Sheet CS and FP (3 pages total).
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house additions comply with the applicable flood damage prevention requirements.
- C. By May 26, 2013 (within the next 60 days) and prior to the issuance of Zoning or Building Permits for the house additions, 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. This plan shall include both the existing and proposed drainage system. 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 11 Waverly Road to maintain the on-site drainage facilities, and will alert future property owners of the 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 prior to the issuance of a Zoning or Building Permit and within 60 days of this approval.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the Overall Site Plan and Details & Notes Plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional

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measures as may be needed due to site conditions, 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.

- E. 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 site grading, building construction and the storm water management (drainage) system have been completed in compliance with the approved plans and the flood damage prevention regulations.
- F. 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, but is not limited to, the requirement for Zoning and Building Permit applications, and possibly a Sewer Disconnection and Connection Permit from Darien Sewer Services for the elevated/modified residence, if that work is more than five feet from the foundation of the house.
- 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. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (March 26, 2014). This may be extended as per Section 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Notice of Drainage Maintenance Plan must be filed prior to the issuance of a Zoning or Building Permit.

Chairman Conze then read the following agenda item:

*Deliberation only 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. *HEARING CLOSED ON 3/19/2013. DECISION DEADLINE IS: 5/23/2013.*

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The Commission agreed that they would not take any action tonight but want to discuss the application. Ms. Cameron said that this is a very difficult site and has been a difficult application to process. Mr. Spain said that the Tokeneke Association has apparently denied permission to do any work in the street right of way. Thus, the applicant must deal with stormwater management completely on site. He said that it might be appropriate to approve the project with conditions and stipulations to ensure that the stormwater water is absorbed on the site, not only after the project is completed, but during the construction process as well. Ms. Cameron said that during construction the stormwater drainage systems are not typically installed and/or do not work well.

Mr. Conze said that he was not here for the last public hearing session and noted that this site is on the margin. The property does contain an existing house and the installation of the drainage system in conjunction with the new house will make the situation better than it is now. Mr. DiDonna confirmed that the Association had denied the installation of the proposed new pipe under the road. Mr. Conze said that stormwater from the site would be put into an existing drainage system and the concern is that the existing small drainage system might be over loaded. If it is over loaded, the correction of that problem would be an expensive fix. Mr. Spain said that at one point the plans had included a sump pump but the sump pump has been deleted from the plans. Mr. Conze said that the Staff should draft a resolution with a number of conditions and stipulations so that the Commission can consider this matter at a future meeting. No action was taken.

Chairman Conze then read the following agenda item:

*Possible deliberations on any public hearings closed on March 26, 2013.*

Commission members felt that the three public hearing items would be appropriate to approve at a later date. Staff will draft resolutions for consideration by the Commission at a future meeting.

Chairman Conze then read the following agenda item:

**Update on Allen O'Neill redevelopment.**

Mr. Conze said that he and Ms. Cameron had met at the site with the Director of Planning and Todd McClutchy and Anthony Rowan. They discussed at length the installation of planting and landscaping to provide proper buffers in accordance with the plans. The landscaping will not be installed yet but will be installed in May. Some of the Certificates of Occupancy will be issued prior to the installation of the landscaping. Mr. Conze noted that the developer is now willing to remove the old chain link fence that is on the top of the easterly stone wall. He will do so only if the neighboring property owners consent to the removal of the fence and allow the workers to be on their property temporarily. Mr. Conze said that he suggested that Mr. McClutchy send a letter to the neighbors by certified mail. Ms. Cameron said that she has been in contact with some of the neighbors and they have not yet received the letter regarding the removal of the fence along the easterly portion of the project.

Mr. Conze said that the developer needs to plant grass as soon as possible or otherwise the heavy spring rains will create mud problems. He said that there is still much work that needs to be done but he understands that some of the units will be occupied in early April.

Chairman Conze then read the following agenda item:

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**Approval of Minutes**

*February 12, 2013 Public Hearing/General Meeting*

Several typos and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the minutes subject to revisions as discussed and approved. The motion was made by Mr. DiDonna, seconded by Mr. Spain and unanimously approved.

*March 5, 2013 Public Hearing/General Meeting*

The following motion was made: That the Planning & Zoning Commission adopt the minutes as submitted. The motion was made by Mr. Cunningham, seconded by Ms. Cameron and unanimously approved.

**EXECUTIVE SESSION (to start no earlier than 9:15 p.m.)**

A motion was made to go into Executive Session to discuss pending litigation with Attorney John Louizos and staff. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

During the executive session no motions were made and no actions were taken.

There being no further business, the meeting was adjourned at 10:15 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director