

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
MAY 28, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Spain, Cameron, Cunningham, DiDonna, Voigt (arrived at 8:20 P.M.)

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat  
Channel 79

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Chairman Spain called the meeting to order at 8 P.M. and read the following agenda item:

**GENERAL MEETING**

**Mandatory Referral #1-2013, Darien Board of Education, Darien High School, 80 High School Lane.**

Proposal to install a replacement scoreboard.

Attorney Bruce Hill spoke on behalf of the Board of Education and the Darien Athletic Foundation. They are seeking a mandatory referral report from the Planning & Zoning Commission regarding the Town's possible acceptance of a gift of a new scoreboard at the Darien High School athletic facilities. He said that this one part of a larger improvement project and overall, the improvement project can be seen as a significant improvement thus requiring mandatory referral. The scoreboard itself has already been approved by the Planning & Zoning Commission on May 7, 2013 as an amendment to the Site Plan for the Darien High School. Mr. Ginsberg said that the current request is only a portion of the overall improvement project. The remaining items are not detailed yet and so they cannot yet be included in this Section 8-24 referral. The current request is only for a report regarding the acceptance of the gift of the new scoreboard at the high school. Mr. Hill said that they are not trying to piecemeal, segment or compartmentalize the project; however, they are looking forward to getting a report from the Planning & Zoning Commission so that the RTM can review and eventually accept the gift of the scoreboard.

Mr. Spain said that the issue for the Planning & Zoning Commission is whether the replacement scoreboard is consistent with the Town Plan. He said that it does appear to be consistent with the Town Plan because it is a replacement and relocation of the existing scoreboard because it also does not create new activities at the school.

Peter Graham said that the old scoreboard might be relocated to a different field within the existing high school grounds but no one is sure yet what will be become of the old scoreboard. Mr. Spain said that if it is to be relocated later, it would need to be discussed and acted on by the Planning & Zoning Commission.

After brief discussion, the conclusion was that the proposed scoreboard replacement is consistent with the Town Plan and that a positive report would be warranted. Commission asked staff to draft a report so that they can consider it and vote on it during the June 4, 2013 meeting.

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Chairman Spain read the following agenda item:

**Mandatory Referral #2-2013, Darien Board of Selectmen, 126 Ledge Road.**

Proposal to expand the Town-owned cell tower Lease Area.

Mr. Voigt entered the meeting and took his place with the rest of the Commission members.

Mr. Ginsberg explained that the proposal is to modify the lease arrangement at the 126 Ledge Road Town property. One of the telecommunication carriers is proposing the installation of a generator at this time and more land area must be leased from the Town to accommodate that new equipment. The mandatory referral also contemplates enlarging the lease area so that the needs for future equipment can be accommodated. Any lease of Town land requires a report from the Commission under Section 8-24 of the Statutes. Mr. Spain said that it might be appropriate for the users of the equipment to share backup generator equipment. Commission members discussed the proposed modification of the lease including Areas One and Two and felt that it was appropriate and in compliance with the Town Plan of Conservation and Development. The following motion was made: That the Planning & Zoning Commission issue a positive report to the Board of Selectmen regarding the proposed expansion of the lease, including Areas One and Two, as shown on the submitted materials. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved.

At about 8:35 p.m., Chairman Spain read the following agenda item:

*Discussion and deliberation ONLY on:*

**Business Site Plan #285/Special Permit, 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; construct associated parking and landscaping; and perform related site development activities. ***DECISION DEADLINE: JUNE 27, 2013.***

Mr. Spain noted that several hearings had been conducted regarding the proposed redevelopment and change of use for this project. The property is in the Service Business Zone and it is immediately adjacent to the residential district on Old Kings Highway South. Normally, a 25 foot wide buffer must be created along Old King Highway South to separate the business use from the proposed commercial development, but in this case the lack of safe access from Cross Street and the layout of the parking area indicate that access will be from Old King Highway South and there will not be an evergreen buffer between the street and the structure. Mr. Spain said that the property has no frontage on the Boston Post Road like most of the other properties in this Service Business District. The property is on the corner of Old Kings Highway South and Cross Street. The Police Commission is not satisfied with access only being from Cross Street due to the need for large vehicles and/or trailers to bring equipment into and out of the site. The relocation of a utility pole to widen Cross Street would be a major expense and undertaking. The current submitted version of the revised plan is to have two access driveways both from Old Kings Highway South. At present, the existing single family residence has only one access on Old Kings Highway South. The proposed change to business use of the structure is necessitating the need for the second access.

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Ms. Cameron said that Old Kings Highway South is a residential street and the proposal would be to change the residential use of this property into a commercial use. Commercial access from Old Kings Highway South would not be appropriate. Other business uses in this Service Business District do not access the commercial use from Old Kings Highway South. She said that in this case, there would be no buffer to speak of. That would be inconsistent with the Zoning Regulations. She said that this small piece of property has been in the Service Business Zone for many years and it would be appropriate to assemble it with other property in the Service Business Zone; but this has not happened. This results in the property having no direct access to Boston Post Road.

Mr. Spain said that Old Kings Highway South is one of the borders of the Service Business Zone in this area and this has been the case for many years. The property is in the Service Business Zone but has no access to Boston Post Road. Mr. Ginsberg said that it has been a house for many years and now the proposed property owner wants to change the use and the access from the street. Mr. DiDonna said that he is very concerned about commercial access of large vehicles. He did note that the proposed use complies with the Zoning Regulations; however, the Site Plan issues and the safety are a big concern.

Mr. Voigt said that the existing house and use as a residence can continue and that the proposed change of use would be to expand the value of the site at the expense of the buffer, which is required adjacent to the residential zone. Mr. Ginsberg noted that the sight line of vehicles coming from Cross Street to Old Kings Highway South would be improved due to the removal of the wall and some vegetation.

Ms. Cameron said that the proposed use requires a Special Permit and it is not allowed as a matter of right. She said that the Commission cannot approve the Special Permit if it would have a negative impact on the neighborhood. She said that the business use should have an evergreen screen and there should be no parking and no sign visible from the adjacent residential zone. She said she understands the applicant has worked very hard to make this project acceptable, but now the only separation of the business use from the adjacent residential zone would be a lawn area. This would not create the privacy required by Section 941 of the Regulations.

Mr. DiDonna said that Section 1005 sets forth the standards for a Special Permit use. One of those standards is that the commercial use does not hinder the use or value of the adjacent and nearby properties. Ms. Cameron said that the proposed development and use would impair or hinder the value of those adjacent residential neighbors. Mr. Spain said that the proposed use is allowed within the Service Business District. Mr. Ginsberg said that under Special Permit provisions in Section 667.1, the Commission is allowed to reduce the requirements of the standard buffer area if it is appropriate and meets the objectives of the Regulations. Commission members felt that the proposed buffer would not be enough to meet the objectives of the Regulations. Mr. Spain said that the current residential use is accessed from Old Kings Highway South and it is a grandfathered residential use in this business zone.

Mr. DiDonna noted that Section 1005 of the Regulations also includes the provision regarding the conversion of a structure from one use to another. He is sympathetic with the fact that the property is in the Service Business Zone but cannot make the required positive finding to allow the conversion of this residence into a business use as proposed. Mr. Spain said that shrubs and other

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landscaping would be needed in the buffer area but they cannot be planted in a way that would obstruct sight lines from the adjacent street or driveways on the site. Mr. DiDonna noted that speed bumps have already been installed on Old Kings Highway South due to the speed of motorists using it as a cut-through, and to access the adjacent residential properties. Mr. Spain said that safe ingress and egress is necessary and most of the traffic and employees would come from the Boston Post Road. He said that there would be only occasional visitors and occasional construction vehicles (trailers) into and out of the site. It is important not to allow any large vehicles backing into the street or backing from the street into the site. An on-site turnaround area for the large vehicles is needed so that equipment would always be able to drive forward to and out of the property. He suggested that a condition of approval to that effect might be appropriate. Ms. Cameron said that the applicant has provided many iterations of the plan but none of them will satisfy this requirement since the police, as Traffic Authority, have stated that access to Cross Street is unsafe. The current plan does not include a way to turn around equipment on site and it would need to back in and out from Old Kings Highway South. She said that a condition of approval as suggested by Mr. Spain has not been presented. Mr. Voigt asked why the Commission should approve something that is not possible to implement. He said that he has not seen how such a plan could work. He thought that it might be appropriate to have one drive on Old Kings Highway South but not two. He said that the owner has the right to use the property as a single family residence as it has been used for many years. If it is going to be used for business use, it might be appropriate to have it absorbed into one of the adjacent business properties that have direct access on Boston Post Road.

The Commission members asked staff to draft a resolution for consideration at a future meeting. The resolution should take into account the safety of traffic on and adjacent to the site and the need to maintain the integrity of the buffer and the Special Permit standards and that the proposed commercial use within the Service Business Zone must be consistent with all of the Regulations.

At about 9:15 p.m., Chairman Spain then read the following agenda item:

*Discussion, deliberation and possible decision on:*

**Land Filling & Regrading Application #300, David & Julie Gorski, 7 Pleasant Street.** Proposing to place fill and construct associated retaining wall on the western part of the property, and perform related site development activities. The subject property is located on the south side of Pleasant Street, approximately 200 feet east of its intersection with Gardiner Street, and is shown on Assessor's Map #45 as Lot #120, in the R-1/3 Zone. *PUBLIC HEARING CLOSED 5/14/2013. DEADLINE TO DECIDE MATTER IS 7/18/2013, UNLESS EXTENDED BY APPLICANT.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution aloud because Commission members have had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved.

Mr. Cunningham said that the objections from the neighbors have mostly been resolved and not all of the neighbors have signed the agreement. The agreement had been submitted at the public hearing. It was noted that the retaining wall will now be reconstructed with stone veneer rather than the **versa-lock**. The draft resolution should be modified accordingly. Mr. Spain said that the neighbor who did not sign the agreement does seem to be protected from the flow of surface water.

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There were some minor punctuation typos to be corrected on the draft resolution. After further discussion, 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. Voigt, seconded by Mr. DiDonna and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 28, 2013**

Application Number: Land Filling & Regrading Application #300

Street Address: 7 Pleasant Street  
Assessor's Map #45 Lot #120

Name and Address of Property Owner, Applicant & Applicant's Representative: David & Julie Gorski  
7 Pleasant Street  
Darien, CT 06820

Activity Being Applied For: Proposing to place fill and construct associated retaining wall on the western part of the property, and perform related site development activities.

Property Location: The subject property is located on the south side of Pleasant Street, approximately 200 feet east of its intersection with Gardiner Street.

Zone: R-1/3

Date of Public Hearing: April 23, 2013 continued to May 14, 2013

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

Publication of Hearing Notices

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

Date of Action: May 28, 2013 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

June 7, 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.

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- 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 place fill and construct associated retaining wall on the western part of the property, and perform related site development activities. The applicant noted that the Cultec units in the back yard were required by the Zoning Board of Appeals as part of a recent application. Because of the height of the water table on the property, the Cultec units were placed at elevation 57.5. This placement has necessitated this application.
2. The applicant explained that he hired Fairfield County Engineering, LLC to prepare plans and an associated Drainage Report.
3. At the April 23, 2013 public hearing, neighbors noted concerns with the subject application. The neighbors noted that they would be hiring their own professional engineer to review and comment upon the plans submitted by the applicant. The public hearing was continued to May 14, 2013, to allow the neighbors and their engineer time to work with the applicant on a resolution of issues.
4. At the public hearing on May 14, 2013, the applicant noted that an agreement had been reached with most of the neighbors. That agreement is a one-page document entitled, "Stipulation for Gorski 7 Pleasant Street Land Filling & Regrading #300". Related plans were submitted with that one-page agreement. Those plans were prepared by the neighbors' engineer, Hammons, LLC, and the Gorskis have accepted those plans and agreed to them.
5. 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 application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. 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 #300 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

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- A. Land filling and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
- David and Julie Gorski, Drainage Plan and Utilities Location, by Fairfield County Engineering, LLC, dated 8-10-12, and received Mar 14, 2013.
  - Proposed Wall Location prepared for 7 Pleasant Street Darien, Connecticut, by Hammons LLC, 5/12/2013. 8-1/2" x 11" (this plan shows the location of the masonry dry rubble wall, the four foot planting strip and the 20 mil HDPE liner.
  - Stone Mason Wall, by Hammons LLC. 8-1/2" x 11".
- All work shall be in accordance with the one-page document entitled, "Stipulation for Gorski 7 Pleasant Street Land Filling & Regrading #300".
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. 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.
- D. By July 28, 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 7 Pleasant Street 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.
- E. 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 verification from a professional engineer in writing and/or photographs that all aspects of the site regrading have been completed in compliance with the approved plans and the agreement referred to in Condition A, above.
- F. 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.

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- G. 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.
- H. 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 (May 28, 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 or regrading work proposed as part of this application, or this approval shall become null and void.

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #271, Flood Damage Prevention Application #307, The Tokeneke Association, Inc., Cross Road Causeway, Pound Gut Seawall, Arrowhead Way Causeway.**  
Modification to previously approved plans.

The Tokeneke Association had received approval in June 2012 to make modifications to the roads and causeway crossings in three different sections of their private residential neighborhood. The Pound Gut project, which is adjacent to Mr. DiDonna's property, is no longer part of the project; therefore, he felt no need to disqualify himself from the discussion. Commission members reviewed the May 6, 2013 letter from William Epifanio, President of the Tokeneke Association. The method of construction to the improvements of the Arrowhead Way/Tokeneke Trail causeway is slightly different but the end result would be the same. It was noted that during the construction, all of the roadways will be passable and will never be blocked to traffic. Commission members felt that the changes as detailed in the letter and attachment were acceptable. The following motion was made: That the Planning & Zoning Commission amend the approval for the work on the Tokeneke Association roads and causeways in accordance with the submitted material. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

Chairman Spain read the following agenda item:

**Amendment of Flood Damage Prevention Application #312, Chris Kehrli, 24 Waverly Road.**  
Proposed amendments to previously approved plans.

Commission members reviewed the plans that involve fine tuning and regrading the walls and planting area adjacent to the house which is being constructed above the expected flood level. Andy Glazer, construction contractor, said that within 15 feet of the property lines all the grades remain as previously approved. He said that this is a case where there is a challenge between the function of elevating the house and making it look well. There was some discussion about the patio to the rear of the building. Mr. Glazer said that it would be backfilled with dirt and there will be a patio on that new grade, rather than a wooden deck.

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The following motion was made: That the Planning & Zoning Commission approve the requested modification and clarifications in accordance with the submitted materials. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

Chairman Spain read the following agenda item:

**Business Site Plan #205-D/Special Permit, Palmwich, 205 Boston Post Road.**

Request for extension of time to commence work.

Mr. Ginsberg explained that the project has been approved in 2010 as a drive-thru food and beverage pick up facility only. The Planning & Zoning Commission has granted several extensions as has the Zoning Board of Appeals. Most recently, the Zoning Board of Appeals denied the request for further extension and therefore the applicant must re-apply to the Zoning Board of Appeals. They are still requesting that the Planning & Zoning Commission extend the Business Site Plan/Special Permit. Jamie Geller, president of Palm Foods, said that they developed a great menu and are asking for one last extension from the Planning & Zoning Commission so they can get their construction documents together, select a contractor and build the facility. This would be the first such Palmwich shop and they want to make sure they get it right. They are aiming to re-apply to the Zoning Board of Appeals in June so that they can have a July hearing and the variances can be re-granted. Mr. Spain said that the Zoning Board of Appeals and the Planning & Zoning Commission do not always use the same criteria for making a decision or for granting extensions. Commission members agreed that it would be appropriate to grant an extension of the Planning & Zoning Commission approval. The following motion was made: That the Planning & Zoning Commission grant a 120 day extension from today, May 28, 2013, in order for the applicant to finalize construction drawings and plans, obtain their variances from the Zoning Board of Appeals and commence construction. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

Chairman Spain read the following agenda item:

**Land Filling & Regrading Application #268, Jack Procaccini, Wakemore Street.**

Request for extension of time.

Mr. Ginsberg explained that the approval had been granted by the Planning & Zoning Commission and must be completed by June 2013. The applicant has obtained his Zoning and Building Permits and is proceeding with construction work. He is asking for a slight relocation of the building and an extension of time to complete the project. Mr. Procaccini said that the original plan involved construction of additions but those additions will not take place at this time. He said the existing storm drainage pipe under the road and through the site had been relocated. Sanitary sewers and drinking water supply had been provided to the site.

Mr. Ginsberg recommended a six month extension to allow for the house to be relocated and the site work to be implemented. The Planning & Zoning Commission agreed. The following motion was made: That the Planning & Zoning Commission grant a six month extension for the time to complete the project. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved.

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Chairman Spain read the following agenda item:

**Approval of Minutes**

May 7, 2013 Public Hearing/Executive Session/General Meeting

Several typos and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the minutes as corrected. The motion was made by Mr. Cunningham, seconded by Ms. Cameron and unanimously approved.

At 9:45 P.M., Chairman Spain opened the public hearing portion of the meeting and read the following agenda item:

**PUBLIC HEARING**

**Site Plan Application #273-C/Special Permit, Board of Education, Darien High School, 80 High School Lane.** Proposing to install a concession stand/restroom building at the south end of the Stadium field at Darien High School. The subject property is located on the north side of High School Lane, approximately 800 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lot #80, #81 in the R-2 Zone. ***THIS APPLICATION HAS BEEN WITHDRAWN.***

Mr. Spain announced that the application had been withdrawn.

Chairman Spain read the following agenda item:

**Amendment of Subdivision Application #544-A(7), Jaime & Christina Vicencio, 19 Morley Lane ("North Lot").** Request to modify previously approved single-family residence to be constructed on the now-vacant lot. The subject property is located on the west side of Morley Lane, approximately 1,000 feet north of its intersection with Redcoat Pass, and is shown on Assessor's Map #63 as Lot #55A, in the R-1 Zone. ***PUBLIC HEARING TO BE OPENED AND IMMEDIATELY CONTINUED TO JUNE 11, 2013.***

Mr. Spain announced that the public hearing on this application will be opened and immediately continued to the next meeting on June 11, 2013 at 8 P.M. in Room 119 of Town Hall.

Ms. Cameron asked if the Morley Lane project had been referred to Environmental Protection Commission and was told that it had been referred but no comments had been received.

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #286, Land Filling & Regrading Application #304, Claudia Little, 6 Shennamere Road.** Proposing to relocate a portion of the existing driveway, and perform related site development activities within a regulated area. The subject property is located on the southeast side of Shennamere Road, approximately 50 feet southwest of its intersection with Contentment Island Road, and is shown on Assessor's Map #68 as Lot #4, in the R-1 Zone.

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Chris Allen of Land-Tech Consultants explained that the driveway goes through the subject property and leads to a property to the east. The proposed relocation would move part of the driveway to the south of the existing garage so that access to the east of the property would no longer pass between the house and the garage. Mr. Allen explained that storm water runoff from the proposed, relocated driveway will be directed into a swale and then into a pipe which will discharge into a rain garden. The relocation of the driveway does remove approximately 11 trees and a landscape plan is being designed to replace the vegetation and install new vegetation. He said that regrading is proposed so that the driveway will go over ledge and hopefully avoid any need for blasting. Mr. DiDonna reviewed the drainage report and noted that there might be some typos with respect to the technical matters. Mr. Allen concurred that Mr. DiDonna had found typographical errors in the report.

Mr. Ginsberg read aloud the comments from the Connecticut Department of Energy and Environmental Protection as noted in their May 14, 2013 email. They found that the proposed project has no inconsistencies with the CAM policies.

In response to questions, Mr. Allen said that it might be necessary to remove some of the rock by using a hoe ram. Commission members have found that using a hoe ram is extremely detrimental to the tranquility of the neighborhood and would prefer that the regrading take place without the need for using a hoe ram or blasting of the rock, but if the rock needs to be removed it would be preferable to use blasting. Blasting would require a permit from the Fire Marshal.

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

At about 9:55 P.M., Chairman Spain read the following agenda item:

**Flood Damage Prevention Application #230-B, Land Filling & Regrading Application #303, James & Diane Bosek, 8 Waverly Road.** Proposing to raze the existing residence and construct a new single-family residence, and perform related site development activities within a regulated area. The subject property is located on the west side of Waverly Road, approximately 200 feet north of its intersection with Baywater Drive, and is shown on Assessor's Map #55 as Lot #16 & #17 in the R-NBD Zone.

Lance Zimmerman, Project Architect, explained that the existing house is located in the Flood Hazard Zone and was damaged by Hurricane Sandy. The current plan would remove the existing house and build a replacement house. The new house would be approximately 800 to 1,000 square feet larger than the current residence but it will be elevated so that the first floor will be at elevation 15 in order to comply with the new Flood Damage Prevention Regulations. The ground in that area is at approximately elevation 8.0. Mr. Zimmerman referred to the construction drawings and noted that several terraces will be built in the front yard to create a gradual rise from the street level to the house level. This also allows them to raise the average grade around the structure to 10.5, which then gets factored into the allowable building height. He said that the building setbacks and height comply with all of the applicable regulations.

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Mr. Zimmerman said that stormwater runoff from the proposed house will be directed into infiltrators. Catch basins in the yard and driveway would direct water into a rain garden to be constructed in the front yard. He said grades at the property lines will remain unchanged and there will actually be less runoff towards the neighbors than under the current conditions. He said that soil tests indicate that there is a sandy base under approximately 18 inches of lawn. Once the infiltrators and rain gardens have been installed, this will allow much of the runoff from storms to be infiltrated into the ground. He said that the Cultec units (infiltrators) will have the bottom of the structure approximately three feet below ground level. He said that deep hole tests were conducted during March and not at a high tide condition. Mr. Zimmerman said that a stormwater maintenance plan for the drainage system and rain garden had been submitted with the application materials. During construction, soil stabilization will be implemented in accordance with the submitted report. He said that smart vents will be used within in the foundation to allow flood waters to equalize the pressure within the structure. The slab for the new house will be pitched so that the lowest portion of the slab will be at the same elevation as the lowest vents.

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

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 10:10 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director