

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JULY 23, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Spain, Cameron, DiDonna, Voigt, Cunningham at 8:15 p.m., Olvany at 9:00 p.m.

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Chairman Spain read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #287, Flood Damage Prevention Application #328, Land Filling & Regrading Application #306, Stephen Milman, 5 Pratt Island. Proposal to install a retaining wall with associated fill, and perform related site activities within regulated areas. The subject property is located approximately 600 feet southwest of the intersection of Nearwater Lane and Baywater Drive, and is shown on Assessor's Map #55 as Lot #110 in the R-1 Zone. ***PUBLIC HEARING OPENED ON JUNE 25, 2013. TO BE CONTINUED AGAIN AT APPLICANT'S REQUEST TO JULY 30, 2013.***

Chairman Spain said that the public hearing has been continued to July 30, 2013 at 8 P.M. in Room 206 of Town Hall.

Chairman Spain then read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #277/Amendment of Site Plan #248, Day Street Development LLC./Nicholas Roberts Group, 13 Grove Street. Proposing to establish a wine bar/restaurant and retail wine store in the first floor of the building now under construction at 13 Grove Street. The subject property is located on the southwest corner formed by the intersection of Day Street and Grove Street, and shares a parking lot with 1015 Boston Post Road, and is shown on Assessor's Map #73 as Lots #15 & #16 in the CBD Zone. ***PUBLIC HEARING OPENED ON JUNE 25, 2013. TO BE CONTINUED AT APPLICANT'S REQUEST TO SEPTEMBER 24, 2013.***

Chairman Spain said that the public hearing has been continued to September 24, 2013 at 8 P.M. in Room 119 of Town Hall.

Chairman Spain then read the following agenda item:

Flood Damage Prevention Application #331, Land Filling & Regrading Application #309, Michael & Elizabeth DeSanctis, 9 Plymouth Road. Proposing to elevate the existing residence, construct additions and alterations, and perform related site development activities within a regulated area. The subject property is located on the east side of Plymouth Road, approximately

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500 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #76 in the R-NBD Zone.

Mr. Ginsberg said that the applicant has requested that this matter be continued. The Commission members agreed to continue the public hearing on September 17th at 8:00 P.M. in Room 119.

Chairman Spain read the following agenda item:

Continuation of Public Hearing regarding 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 OPENED 5/28/2013, then continued to 6/11/2013, 6/18/2013 and 7/23/2013.***

This item was continued until July 30th at the applicant's request.

At 8:15 P.M., Mr. Cunningham arrived. Chairman Spain then read the following agenda item:

Continuation of Public Hearing regarding:

By Order dated December 19, 2012 in the matter of Christopher & Margaret Stefanoni, v. The Darien Planning and Zoning Commission – Docket No.: HHB-CV-11-5015368S (the "Appeal"), Judge Henry Cohn remanded the matter back to the Darien Planning & Zoning Commission for limited reconsideration. The legal notice for the original application read as follows:

Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street. Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities. The subject property is located on the east side of Hoyt Street approximately 100 feet south of its intersection with Echo Drive, and is shown on Assessor's Map #27 as Lot #168-1, within the R-1/3 zone.

Mr. Ginsberg explained that Fire Marshal Robert Buch was present and that the Town's Traffic Consultant, Michael Galante would not be available until the meeting of July 30th. Mr. Spain said that this matter is being reopened in accordance with the Court's order of remand, and the Judge's remand decision directed that the Commission obtain from the applicants a list of conditions in the original approval that are acceptable and those that are not. He said that it is important that the applicants follow that Court directive and submit a list of all conditions and modifications set out in the Commission's 2011 initial decision to which the applicants have no objections.

Mrs. Stefanoni asked if Mr. Galante will be submitting a report or just discussing the traffic information. Mr. Ginsberg said that he will be addressing the accident reports that have been submitted and the revised driveway location plan that has been submitted. He also said that he understands that the neighbor, Mr. Gregory, has a traffic consultant that could not be present tonight, but will be available on July 30th.

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Mrs. Stefanoni said that one of the issues brought up at a previous meeting was the location of the northerly property line of the subject property and how it did not match up with the neighbor's survey map representation of their southerly property line. She said that the applicants' plan is only a graphic representation of the property boundaries and she will make sure that the surveyors work out that matter.

The Darien Fire Marshal, Robert Buch, was introduced and answered questions posed by Mrs. Stefanoni regarding his July 16, 2013 Memorandum. It was noted that the certification regarding the weight load to be placed on the drainage structures needs to be on the Plan. Mr. Buch said that the 50,000 pound standard load is to be utilized. Also, the wall height needs to be clarified and shown on the plan and it is important that any ladder providing access to the upper levels be able to clear any obstructions within 15 feet of the building. Mr. Buch said that at the time of construction, it would be necessary to verify the water pressure and the flow capacity of the standpipes. He also noted the sprinklers are required for this type of building and the standpipes are required because it is more than 150 feet to the nearest fire hydrant.

It was also noted that a hammerhead turnaround area on the site is needed to avoid emergency vehicles having to back out into Hoyt Street. He said that the driveways appear to be of sufficient width. Mr. Buch said that it would be very rare for Stamford Fire Fighters to respond to an emergency in Darien, but it has happened.

In response to other questions, Mr. Buch said that if there was no smoking allowed in the building, then it is less likely that there would be a fire in the building. He said that the NFPA standards have been adopted and some amendments have been incorporated by Connecticut law. Mr. Buch said that rescue windows are required in every bedroom and in certain other living spaces. In response to a question, he said that firefighters responding to an emergency can enter or go through a neighbor's property in order to access the building in question.

Mrs. Stefanoni asked Mr. Buch about the multifamily steel frame building at 745 Boston Post Road. In that case, the building is approximately 6 feet from the side lot line. He said that this is acceptable there due to the site conditions and surroundings where there are driveways or streets on three or more sides of the building. He also said that in some cases there are no rescue windows on the side of the building and then the usual 15 feet of clear access to that side of the building is not needed.

Mrs. Stefanoni said that according to the site plan of 745 Boston Post Road, one of the driveway access ways adjacent to the building is on an adjacent property, but the driveway in that location might be changed in the future by the owner of that property.

In response to questions, Mr. Buch said that single family homes are not required to have sprinklers, but sprinklers are an effective fire deterrent in such structures. It was noted that Hoyt Street is in a residential R- $\frac{1}{3}$ Zone and allows for 2 $\frac{1}{2}$ story structures with living spaces on the third level. Ten foot side yard setbacks are required. Mr. Buch said that the Fire Marshal does not have jurisdiction over single family houses and that even if only a 10 ft. side yard is required, the Fire Department will do their best in the case of any emergency. He said that with more space available, it is better.

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Mr. Spain discussed the height of the proposed retaining wall near the south property line. It is proposed to be closer to the building than the required 15 feet. He said that the site slopes down from the north to the south and so the retaining wall would be to hold up fill material placed on the south side of the building. From the site, you would step down to the adjacent house lot.

Mr. Buch said that the fire fighters would need access to maneuver the ladders and equipment to access the building. He said that instead of a retaining wall that could trip fire fighters, it would be better to have a slope or, if there is a wall, to have a fence so that fire fighters are not tripping down the wall. He said that the 15 foot clear area adjacent to this multi-family building is not for vehicular access, but it is for the fire fighters and their ladders and hand carried equipment. In some cases, the base of the ladder would be only 6 feet away from the building and then there would be an additional 9 ft. maneuvering area for the fire fighters and their equipment. Trees in this area would limit access of the fire fighters and their ability to reach the upper levels of the building, so there should not be any.

Mr. DiDonna said that to the rear of the building there is only approximately 5 feet from the building to the open space parcel and the deed restriction indicates that the trees in the open space area are not to be cleared and that it is to remain natural.

Mr. Voigt said that trees and high brush could obstruct access of the fire fighters, whereas low brush could still afford access to the building.

In response to another question, Mr. Buch said that the turning radius of 47 feet is for the largest truck that the Darien fire companies now utilize. He said that that is the minimum standard that must be attained for the entrance driveway and the turn-around hammerhead area.

Gary Bernhardt of 6 Echo Drive asked as to the 16 units of senior housing in a wood frame building, if there are any compatible structures or uses in Darien. He also asked how in a fire such circumstances could or would be handled.

Fire Marshal Buch said that the Atria and Maplewood senior assisted living complexes have wood in their frame structures with sprinkler systems; but they are very dissimilar to what is being proposed here. The Fire Department is prepared to do what they have to do in response to emergency and they will perform to the best of their ability. He said that Maplewood has a 24 hour staff and different construction style. He said that if staff is present on a site, there is a quicker response to identify the problem and take appropriate action.

The sprinkler system within the proposed building lessens the likelihood of a major fire. The water pressure in the utility system needs to be tested at the time of construction otherwise the applicants need to supplement the fire sprinkler system. He said that high water demand is not taken into account at the time of the test. Mr. Buch said that it would be safer if a supplemental system is incorporated even if the test does not warrant it. He said that the regular system will use gravity pressure of the utility water system, but a supplement system would provide more consistent pressure. He was asked if the supplement tank can be located on the roof of the structure and he said that he had seen it designed in that manner.

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Mr. Bernhardt asked if response time to Hoyt Street would be comparable to response time on Ledge Road or the Boston Post Road, where Atria and Maplewood are located, respectively.

Mr. Buch said that response time to Hoyt Street would be greater due to the longer distance. He said typically it would take 5 minutes for volunteers to respond to the fire house and then another five minutes to get to a site. He said that a fire grows rapidly due to delays. He said that the standard issue for insurance purposes is whether a site is within 5 miles of a fire house or within 1,500 feet of a fire hydrant. Mr. Buch said that the 47 foot turning radius is not certified on the plans, but should be.

Mrs. Stefanoni said that the Atria and Maplewood facilities in Darien are Assisted Living Facilities that require staff to be present 24 hours a day. She said that this proposed housing is for residents that are 62 years and above and are more mobile than the people who would live in Atria or Maplewood. She said that Mr. Hammons will provide certification regarding the 47 ft. turning radius, but it might be in a memorandum.

There being no further comments, the Commission recessed the public hearing and will reconvene on July 30, 2013 at 8:00 P.M. in Room 206 of the Darien Town Hall. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

At 9:00 P.M., Mr. Olvany arrived.

Chairman Spain read the following agenda item:

Coastal Site Plan Review #289, Flood Damage Prevention Application #332, Jacqueline Judge, 97 Nearwater Lane. Proposing to elevate the existing residence and its associated mechanical units, and construct additions and alterations to the house, and perform related site development activities within regulated areas. The subject property is located on the west side of Nearwater Lane, approximately 465 feet south of its intersection with Nickerson Lane, and is shown on Assessor's Map #52 as Lot #3 in the R-1 Zone.

Mr. Roman, General Contractor for the property owner, represented the property owner and explained that the project had been approved by the Zoning Board of Appeals with the exception of an extra foot of floor height. Accordingly, the first floor will be placed at Elevation 15 instead of Elevation 16. He also noted that the Environmental Protection Commission (EPC) had approved the project to lift the existing house. He said that all of the neighbors, except two, have supported their plans. Mr. Roman said that they are continuing to work with the Health Department to finalize an approval from that department as well as an approval from the Department of Public Works. Mr. Spain said that the information submitted in the application appears to be complete. There were no questions or comments from the public regarding this application to elevate the existing house so that it will be above the expected flood level.

The following motion was made: that the Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

Chairman Spain read the following agenda item:

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Coastal Site Plan Review #83-A, Flood Damage Prevention Application #71-A, Job & Sascha Sandberg, 47 Pear Tree Point Road. Proposing to remove existing pier, ramp and float, and construct a new pier, ramp, and float, and to perform related site development activities within regulated areas. The subject property is located on the west side of Pear Tree Point Road, approximately 1,300 feet south of its intersection with Rings End Road, and is shown on Assessor's Map #60 as Lot #51 in the R-1 Zone.

John Roberge, Professional Engineer, represented the applicant and explained that the pier and dock must be modified to comply with the decisions rendered by the Connecticut Department of Energy and Environmental Protection (DEEP) and the United States Army Corps of Engineers. They are elevating the structure so that it will be above the existing seawall. Accordingly, they will need a small ramp approximately 4 ft. wide and 8 ft. long to extend from the upland area, within the jurisdiction of the Planning & Zoning Commission to the raised pier structure. He said that this is approximately a 0.8 ft. rise and will have virtually no impact on the flooding or any coastal resources. Mr. Roberge said that the raising of the pier structure actually is better for the environment. He said that it will involve the use of approximately one-half of cubic yard of concrete to create the new ramp.

There were no comments or questions from the public. 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. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Spain read the following agenda item:

Flood Damage Prevention Application #180-B, Peter Sikora & Melanie Branca, 16 Mayflower Road. Proposing to elevate the existing residence and construct additions and alterations, and to perform related site development activities within a regulated area. The subject property is located on the west side of Mayflower Road, approximately 450 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #45 in the R-NBD Zone.

Chad Nehring, Architect, represented the property owners and explained that they are elevating the existing structure that is located approximately 800 feet to the west of Long Island Sound. At present, the existing first floor is at Elevation 8.9. The proposed structure will be raised to Elevation 17.4. The Planning & Zoning Commission had previously approved the elevation of the first floor at 15, but the applicant now wants to make sure that they will not need to raise the structure in the future if the FEMA Maps change. Mr. Nehring said that the proposed building height still complies with the Zoning Regulations. He said that the Zoning Board of Appeals has granted variances because the side yards do not comply with the Regulations and because existing building coverage is approximately 21.3 and the proposed building coverage will be 20.3% of the lot area. He said that a Storm Water Management Plan has been included as required by the Zoning Board of Appeals stipulation. The Drainage Plan has been reviewed by the Town's Engineering Department and they will make slight modification as recommended by the Department of Public Works. Mr. Nehring said that the soils on the site are very good for absorbing water and that including the drainage system will actually improve how storm water management is handled in the neighborhood.

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Mr. Ginsberg said that the Engineer's/Architect's Certification of the foundation has been submitted.

Mr. Olvany questioned the layout of the lowest floor level which contains the garage area. Mr. Nehring said that the entire lower level would be a garage and storage area that will have flood vents to let flood water in and out. There is a small ground floor vestibule entrance to allow access via stairs from the ground level up to the first floor of the house which will be at Elevation 17.4. There are no other finished spaces proposed on the lower level.

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

Chairman Spain opened the General Meeting and read the following agenda item:

GENERAL MEETING

Amendment of Special Permit Application #26-C, Darien Arts Center, 30 Edgerton Street.
Request to use Senior Center for Darien Arts Center activities September-December 2013.

Mr. Ginsberg explained that the Arts Center had previously received temporary approval to conduct some activities at the Senior Center on Edgerton Street. Now that the Board of Education facilities at the Town Hall are being renovated to become a community center, the Arts Council is requesting permission to have after school and weekend programs at the Senior Center from September to December in 2013. Hopefully, by the beginning of 2014, the new community center at the Town Hall will be ready for the Arts Council to use. It was noted that it is important that there are no conflicts between the use of 30 Edgerton Street as the Senior Center.

The following motion was made: that the Commission approve the September to December 2013 request by the Darien Arts Council to utilize the facilities at 30 Edgerton Street. The motion was made by Mr. Olvany, seconded by Mrs. Cameron and unanimously approved.

Chairman Spain then read the following agenda item:

Amendment of Special Permit Application #11-M, Ox Ridge Hunt Club, 512 Middlesex Road.
Request for Opus Person-to-Person special event in September 2013.

Commission members commented that the application was clear and complete and that the special use by OPUS Person-to-Person on September 21, 2013 was acceptable. There were questions regarding the use of generators on the food service trucks and how that noise might impact the neighbors. It was suggested that the possibility of running electrical power to the trucks should be explored.

Mrs. Fioroni said that the trucks will be 50 yards or more from the wall and the neighbors' houses are then across the street from the wall. She will explore the possibility of having electrical power to the trucks so that generators will not be necessary.

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Commission members discussed that there would be adequate on-site parking for the special event.

The following motion was made: That the Commission approve the Opus Person-to-Person Special Event of September 21, 2013 as described in the application letter. The motion was made by Mr. DiDonna, seconded by Mr. Cunningham and unanimously approved.

At about 9:25 p.m., Chairman Spain read the following agenda item:

Amendment of Special Permit Application #221-F, Darien Fire/Police/EMS, 4 Tower Drive.

Request to change size of shed approved on July 16, 2013 from 6' x 7' to 8' x 12'.

Mr. Ginsberg explained that the approval granted on July 16, 2013 specified a 6' x 7' shed to enclose the equipment. That shed was not available and now the applicant is requesting permission to install an 8' x 12' shed. Commission members questioned whether windows would be provided and if that would propose any security risk. They asked the staff to work out those details with the applicant.

The following motion was made: that the Planning & Zoning Commission approve the increase in the shed size to 8'x12' as requested. The motion was made by Mr. Olvany, seconded by Mrs. Cameron and unanimously approved.

Deliberations only on any public hearings closed on July 23, 2013.

Commission members discussed the pending applications for Judge, Sandberg, and Branca/Sikora, and asked staff to draft resolutions for those three items.

Approval of Minutes

June 18, 2013 Public Hearing/General Meeting

Commission members agreed to correct typographical errors. The following motion was made: that the Commission adopt the corrected minutes. The motion was made by Mr. Cunningham, seconded by Mrs. Cameron. All voted in favor except Mr. Voigt who was not present. The minutes were adopted by a vote of 5 to 0 to 1.

June 25, 2013 Public Hearing/General Meeting

Commission members agreed on correcting typographical errors. The following motion was made: that the minutes be adopted as corrected. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

July 9, 2013 Public Hearing/General Meeting

Commission members agreed to correct typographical errors. The following motion was made: that the Commission adopt the corrected minutes. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

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

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The following motion was made: that the Commission discuss the project at 205 Boston Post Road under "Other Business". The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

Mr. Ginsberg explained that the food service use proposed at 205 Boston Post Road was originally required to have an odor control venting system in accordance with Stipulation P of the approval. The operators have decided that they will not be frying or cooking food at the site. They will be bringing in the prepared food from a different location and then only reheating it on-site. They are asking permission to build a facility without the stipulated odor control and venting system.

Commission members said that it would be acceptable but noted that controlling the odors is the critical factor. If the type of food or method of preparing the food changes and does create any odor problem, the applicants will be required to install the odor control system.

The following motion was made: that the Planning & Zoning Commission approve the temporary modification of Stipulation C so that the odor control and ventilation system does not need to be provided at this time because the food is being brought into the site and only reheated at the site. This Commission's approval is subject to approval by the Health Department and Fire Marshal, and if odor emanating from the site does become an issue, the applicants will be required to install the odor control system. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

The next meeting of the Commission is scheduled for July 30, 2013. Mr. Ginsberg said that the agenda for that meeting is full and will include the Affordable Housing Trust Fund.

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. Cunningham and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director