

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

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, DiDonna, Voigt, Olvany, Sini, Cunningham (arrived at 8:05 p.m.)

STAFF ATTENDING: Ginsberg, Keating (arrived at 9:05 pm)

RECORDER: Syat, Channel 79

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**PUBLIC HEARING**

Chairman Cameron called the meeting to order at 8 P.M.

**Continuation of Public Hearing regarding Coastal Site Plan Review #272-A, Land Filling & Regrading Application #273-A, Eric Richards/Estate of Beatrice Richards et. al., 121-123 Five Mile River Road.** Proposing to raze the existing residence and garage, implement the “free cut”, and construct two single-family residences and in-ground pools with associated filling/excavation and regrading work, and perform related site development activities within a regulated area. The subject property is located on the south and east side of Five Mile River Road approximately 700 feet south of its intersection with Davis Lane, and is shown on Assessor’s Map #67 as Lot #2 in the R-1/2 Zone.

Attorney Wilder Gleason said that he was present on behalf of the neighbors. Mr. Sini read from a prepared statement:

“I would like to state for the record that even though I was not sworn in as a member of the Darien Planning & Zoning Commission until November 12, 2013, I have watched the previous three public hearings related to the Richards’ application. I have also reviewed the documents and plans that have been submitted for the file and recently walked the boundary of the 123 Five Mile River Road property. Therefore, I believe that I am qualified to participate for the balance of the public hearing and the decision in due course.

Since I have not yet had the opportunity to address this application, I want to note that I do have a key concern: Since the so-called “free-cut” letter was drafted by the Darien Planning & Zoning Director in January 2010 (almost 4 years ago), this Commission has received a significant amount of relevant information which may repudiate the applicant’s right of a “free-cut” of the property located at 123 Five Mile River Road.

As a point of order, I’d like to ask my fellow Commissioners if they believe that this body should proceed with this public hearing until a stamped, final plan with property lines is filed in the Darien Land Records?”

Mr. Ginsberg confirmed that additional information had been provided by both the applicant and the neighbors regarding the free cut issue, and when/if the free cut request is again put before him, he

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would need to re-evaluate his prior decision in light of the new information received. Mr. DiDonna noted that there is another threshold issue, which is whether the applicant has access to the private part of Five Mile River Road, and the appropriate boundary of said road. Mr. Cunningham then arrived at the meeting.

Mr. Gleason explained that the Planning and Zoning Commission has the power to not hear the pending matter until the free cut has been implemented. He explained that the neighbor's engineer, Barry Hammons, could not be present tonight. Mr. Gleason explained that two letters had been received from surveyor Mark Lebow of William Seymour & Associates. They deal with the question of whether a corner lot exists, and the frontage issue. Mr. Gleason believed that part of the property does not touch the right-of-way of the private road. He showed his interpretation of the front, side, and rear property lines. He questioned Mr. Lebow's recent interpretation. Mr. Hammons stands by his work showing the area between the property and the right-of-way of the private road.

Mr. Gleason explained that the proposed pool is noted as having an eight foot depth, but the plans do not reflect that. The plans reflect a four to five foot depth. Mr. Gleason noted that Mr. Hammons disagrees with Mr. Frangione's calculations. He noted that there would be 2400 truck trips using 10 yard trucks, not 1400 trucks as previously indicated. The walls will be two to six feet in height with footings and foundations. Some of these are engineered walls, and the Planning and Zoning Commission cannot evaluate these impacts.

Mr. Gleason then submitted a highlighted June 2, 2013 Stormwater Drainage System Maintenance Plan as prepared by Frangione Engineering. He said that this Plan notes the requirement to vacuum pervious pavers once a year or it won't work. He asked whether this is appropriate in this situation due to the need for maintenance. He asked whether a rain garden would be better.

Mr. Gleason then said that the lot #2 driveway is dangerous. It contains a 10% slope, leading to a twelve foot wide right-of-way. There is no flat space near the road, as required by the Darien Subdivision Regulations. The sight line for the driveway is 70 feet. According to Barry Hammons, they cannot improve the existing sight line. There is a need to document possible emergency vehicle access. Thus, the proposal is an unsafe dangerous driveway on Lot #2.

Mr. Bob Gadsden of Five Mile River Road explained that a total of 37% impervious site coverage is proposed here. He then distributed an exhibit of photoshopped photos. He claimed that the applicant's photoshopped photos show the houses set too low on the site, and do not show the proposed retaining walls. On one of the lots, an 8,500 square foot house is proposed. These are the architect's applicant's renderings. He did not include the large oak tree. The existing property is in the R-1/2 zone. The median house size of nearby houses is 3,600 square feet, and the median lot size is .65 acres, excluding 123 Five Mile River Road. The new houses on the street include the Kane properties, a 2,764 square foot house at 149 Five Mile River Road, and a 2,550 square foot house at 147 Five Mile River Road. The former McNell property (then Kaali-Nagy property) at 125-129 Five Mile River Road, and the new houses recently placed thereon, galvanized the neighbors.

Mr. Gadsden then submitted an April 20<sup>th</sup> three page letter. He said that one proposed house is 8,500+/- square feet on .61 acres. The other property is .5 acres with some unbuildable land. The

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proposal is way beyond tweaking. The site work is extreme. The impervious surface is high in a CAM zone and scenic area. The Commission needs to raise the standard of future submittals. The Commission still has not seen all the proposed building elevations. He has concerns regarding both street frontage and street access.

Callie Sullivan, of 118 Five Mile River Road, said that she is a member of the Five Mile River Preservation Group. She then submitted a January 26, 2010 two-page letter. The Zoning Board of Appeals said that this is not a final decision. Thus, the free cut has not been implemented. The applicant pressed on regardless. She then submitted an August 16, 2013 letter from Wilder Gleason and an August 29, 2013 letter from Callie Sullivan. She stated that this is one of the last historic vistas in Darien. The free cut should be filed prior to any re-application to the Commission. Any proposed development should minimize the environmental impacts.

Mr. DiDonna then asked Ms. Sullivan if it is her position that the Planning and Zoning Commission is acting improperly, and if so, what is improper about how they have processed the application? Ms. Sullivan responded that she wonders how the Commission can hear the application without knowing for sure whether the property is one building lot or two building lots. There is no closure on the free cut question. Mr. Ginsberg then summarized the background on the free cut analysis.

Mr. Voigt said that the Commission can hear full applications where there are several issues before the Commission all at once. The Commission must make a full, complete decision. Ms. Cameron confirmed that this is the fourth night of public hearings on this application. Mr. Olvany noted that the free cut has not been implemented, and the applicant therefore now only has one lot. Mr. Sini agreed that the applicant now only has one lot, since they have not filed the free cut map in the Darien Land Records.

Ms. Tammy Langelis of the Norwalk Sixth Taxing District confirmed that she had sent in a November 12, 2013 letter to the Commission. She noted the presence of Pinckney Park in Rowayton, which is across the River from this property. She said that the Commission should try to preserve this historic vista.

Ms. Wendell Livingston said that she is the president of the Rowayton Historical Society, and urged the Commission to not approve the plans as submitted.

Mr. William Jessup of 122 Five Mile River Road said that he is present on behalf of the Five Mile River Commission. He said that they were not notified of this application. He asked that they be allowed to review all aspects of this project.

(At 9:05 p.m., Mr. Keating then arrived at the meeting).

Ms. Jillian Nelson of Five Mile River Road said that she lives across the street from the subject property, and the circle at the end of the public part of Five Mile River Road needs to remain clear so the school busses and other large vehicles such as trucks have room to turn around. The school bus cannot turn around if trucks are parked there. She is concerned about the safety of the children in the area, since there is nowhere on the street for trucks and construction vehicles to turn around.

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Ms. Kimberly Rowe of 9 and 34 Rowayton Woods Drive then spoke, and noted her concern about changes in the neighborhood which have occurred through time.

Mr. Gleason then distributed a November 19, 2013 summary of Neighbor Objections. He believed that there has been no attempt on the part of the applicant to preserve the natural features of the site. The development will impact the scenic vista, even though the public vista may be from Norwalk, or a kayak in the water. Mr. Voigt also mentioned a scenic vista from the public portion of Five Mile River Road. Mr. Gleason noted that there would be extensive tree removal. He gave the Commission a roadmap for decision-making. The resolution of the free cut issue needs to be resolved prior to any re-application. Section 1025.9 of the Darien Zoning Regulations gives the Planning and Zoning Commission freedom. Mr. DiDonna asked that any research of the right-of-way and any associated deeds be put into the record in this matter. It would be helpful to explain the discrepancy between the Hammons and Seymour Associates surveys. Mr. Gleason asked whether the free cut issue falls into the Planning and Zoning Commission jurisdiction. Ms. Cameron said a detailed Hammons survey is desired.

At about 9:25 p.m., Mr. Michael Aurelia noted that he had been retained by the Town to review this application. He said that he would like to include a copy of his resume for the record in this matter. He has reviewed the file and visited the site four times, and watched the DVDs of the meetings. He also reviewed applicable aerial photography of the site. He said that there are significant coastal resources on-site. Tidal wetlands have disappeared in this area. They are a significant resource here. A shellfish concentration exists below Mean High Water in this location. The Planning and Zoning Commission should engage someone to do a historical analysis. Mr. Aurelia noted that there is now a dock existing on site, and asked whether there will be another. He recommended that the existing retaining wall be analyzed, as there has been some settlement of the existing seawall. He said that a detailed construction phasing plan is critical. He recommended the creation of a 35 foot buffer near the critical coastal resource and the development. He noted the presence of oysters on the intertidal area. He said that one cannot harvest here, but further downstream is possible. The proposed amount of impervious surface is a concern. A good model is to try to meet 25 % impervious surface maximum. For stormwater management, simple systems like rain gardens, work best. Maintenance of Cultec systems is a concern. More passive stormwater management is needed, with less impervious surface.

Mr. Aurelia then submitted a digital copy of a document from 1836. He asked the Commission to consider establishing a 35 foot buffer, and submitted a map showing the proposed location of the buffer line. He also submitted a DEEP document regarding the value of a buffer adjacent to tidal resources. In his various visits to the site, he noticed 27 different bird species, including migratory birds. A related two-page document was submitted. Mr. DiDonna asked about the presence of a rocky shorefront. Mr. Aurelia responded that there are rocky shorefronts present, and there are intertidal mud flats. Mr. Gleason then asked Mr. Aurelia a question, noting that he was focused on the State Statutes, but Section 1025.9 of the Darien Zoning Regulations says that the plan must conserve natural features. Mr. Aurelia confirmed that there are rock outcrops now on the site.

A motion was made to continue the public hearing on this matter to Tuesday, November 26, 2013 at 8:00 p.m. in room 206 of Town Hall. Mr. Ginsberg noted that this agenda item may not start that night until approximately 8:45 p.m., due to a previously scheduled Executive Session with Town Counsel. Mr. Olvany made a motion for said continuation. That motion was seconded by Mr.

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Voigt, and was unanimously approved. The Commission then recessed the meeting for five minutes.

At about 9:50 p.m., Chairman Cameron opened the general meeting and read the following agenda item:

**GENERAL MEETING**

**Mandatory Referral #6-2013, Darien Sewer Commission, Andrews Drive.**

Request for report regarding acquisition of land off of Andrews Drive on which a sewage pump station now exists.

Mr. Ginsberg explained the proposal put forth by the Darien Sewer Commission for the Town to acquire a pump station off of Andrews Drive. The developer will be giving about 4,000 square feet of land to the Town. Access to this pump station will be via Andrews Drive. A report issued by the Commission will go before the RTM for their review and action. Mr. DiDonna then read aloud from a portion of the 2006 Town Plan of Conservation & Development. Mr. Ginsberg believed that the acquisition is consistent with Sewer Commission policies. After a brief discussion, the Commission asked Mr. Ginsberg to draft a report for their review and action at next week's meeting. Mr. DiDonna then noted page 9-23 of the Town Plan, referring to the acquisition of utility lands.

Chairman Cameron then read the next agenda item:

*Discussion, deliberation and possible decisions on the following:*

**Coastal Site Plan Review #295, Flood Damage Prevention Application #335, Daniel Smith, 149 Long Neck Point Road.** Proposing to construct a replacement pier, ramp, and dock and perform related site development activities within regulated areas.

Mr. Cunningham then made a motion to waive the reading of the draft resolutions aloud. That motion was seconded by Mr. Olvany, and was unanimously approved.

Ms. Cameron noted that the draft resolution should be changed to reflect holding the bond for one growing season, rather than for a year. Mr. Sini then made a motion to adopt the draft resolution as amended. That motion was seconded by Mr. Olvany, and was unanimously approved. The Adopted Resolution is as follows:

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

Application Number: Coastal Site Plan Review #295  
Flood Damage Prevention Application #335

Street Address: 149 Long Neck Point Road  
Assessor's Map #59 Lot #9

Name and Address of  
Property Owner: Daniel Smith  
149 Long Neck Point Road

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Darien, CT 06820

Name and Address of Applicant & John Hilts  
Applicant's Representative: PO Box 47  
Rowayton, CT 06853

Activity Being Applied For: Proposing to construct a replacement pier, ramp, and dock and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Long Neck Point Road approximately 100 feet north of its southernmost intersection formed by Pear Tree Point Road and Long Neck Point Road.

Zone: R-1

Date of Public Hearing: November 12, 2013

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

Publication of Hearing Notices

Dates: November 1 & 8, 2013

Newspaper: Darien News

Date of Action: November 19, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
November 29, 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 400, 810, 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 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 proposal is to construct a replacement pier, ramp, and dock and perform related site development activities within regulated areas. A portion of this work is in State of Connecticut DEEP jurisdiction, and a very small portion is within the Town of Darien Planning and Zoning Commission jurisdiction.

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2. The State of Connecticut DEEP has issued a permit for the proposed work within their jurisdiction—Permit #201302994-TS on July 29, 2013. The Army Corps of Engineers has also approved the project.
3. During the public hearing, the applicant noted that the property owner, having already applied for and received State of CT DEEP permits and US Army Corps of Engineers permits, and believing that no local permits were needed, and that the contractor was already working on the adjacent property, has already constructed the pier and ramp. While the Commission cannot condone this, it believes that it is in the best interest of the environment and nearby coastal resources to not have the property owner rip up the work, but rather, to leave the pier and ramp as constructed.
4. A number of plantings to stabilize the disturbed soil were proposed as part of the application, and have not yet been installed. The Commission believes that it would be appropriate to require a performance bond to assure that said plantings are installed as shown on the submitted plans and to assure that they survive, and if necessary, are replaced.
5. 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.
6. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
7. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
9. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
10. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #295 and Flood Damage Prevention Application #335 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction and planting work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Proposed Retention and Replacement of boat dock in Ziegler's Cove at: 149 Long Neck Point Road, by Mr. Daniel Smith, dated 5/29/13, Sheets 3-5.
  - Proposed Grading & Planting in Ziegler's Cove at: 149 Long Neck Point Road, by Mr. Daniel Smith, date 8/01/13, Sheet 1 of 1.
- B. Because of this property's location adjacent to Long Island Sound, the Commission hereby waives the requirement for a drainage report and analysis.
- C. As noted in Condition A, above, the proposed plantings are an integral part of this application, as they are essential to minimizing erosion and holding the slope. In order to assure that this aspect of the work is completed, the Commission is requiring a \$5,000 performance bond. Up to one-half of this bond may be returned to the owner once the plantings have been installed and written certification to that effect has been submitted. If any of the plants do not survive the first growing season, they must be replaced by the applicant. The remaining portion of the bond may be returned by the Commission one growing season after the last planting has occurred.
- D. Once the project is complete, and prior to October 30, 2014, the applicant shall submit a final certification, including photographs from the applicant, that all work, including the required plantings, has been properly completed in accordance with the approved plans.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures 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.
- 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.
- 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 this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (November 19, 2014). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan as approved 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. The required Performance Bond shall be posted with the Planning and Zoning Department within sixty days—by January 19, 2014.

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Chairman Cameron read the following agenda item:

**Special Permit Application #122-B, Darien Housing Authority, 24 Allen O'Neill Drive.**  
Proposal to locate the Darien Housing Authority office within the existing community building at The Heights at Darien.

Mr. Sini recommended including a condition of approval to reflect finding #4, which notes that large meetings should be moved off-site. Commission members agreed, and Mr. DiDonna made a motion to adopt the draft resolution with that change. That motion was seconded by Mr. Olvany, and approved by a vote of 6-0. The Adopted Resolution is as follows:

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

Application Number: Special Permit Application #122-B

Street Address: 24 Allen O'Neill Drive  
Assessor's Map #21 Lot #103

Name and Address of Applicant: Darien Housing Authority  
And Property Owner: 2 Renshaw Road  
Darien, CT 06820

Name and Address of:  
Applicant's Representative: Todd McClutchy  
Allen O'Neill Homes, LLC  
c/o JHM Group of Companies  
1281 E. Main Street, Suite 201  
Stamford, CT 06902

Activity Being Applied For: Proposal to locate the Darien Housing Authority office within the existing community building at The Heights at Darien.

Property Location: The subject property is located on the east side of Noroton Avenue, approximately 550 feet north of its intersection with West Avenue.

Zone: DMR Zone

Date of Public Hearing: November 12, 2013

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

Publication of Hearing Notices

Dates: November 1 & 8, 2013

Newspaper: Darien News

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Date of Action: November 19, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
November 29, 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 520, 1000 and 1020 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 floor plan, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The application is to locate the Darien Housing Authority office within the existing community building at The Heights at Darien. The Housing Authority has been located within Darien Town Hall for over twenty years, and would be vacating that space. The subject community building is served by public water and sewer. The request to relocate the Housing Authority requires a Special Permit in accordance with 404e of the Darien Zoning Regulations.
2. It was clear from the applicant's presentation that only one or two Housing Authority employees would be working within the community building on a day-to-day basis, and that overall, having the Housing Authority on-site would be an overall benefit to the residents who live at the Heights at Darien.
3. As explained at the public hearing, the one or two employees working in this office on a day-to-day basis, would have general office hours during weekdays. It was noted by the applicant's representative that the superintendent / maintenance director for the Heights will not have an office within this building. Because of the limited number of employees, and the very few visitors expected to drive to the Housing Authority office, the Commission finds that the on-site parking is in compliance with Section 905 of the Darien Zoning Regulations. The Commission is not requiring that additional parking spaces be constructed to accommodate this use.
4. There is no proposed physical change to the size or location of the existing community building as part of this application. While it is expected that the Housing Authority could have its regular meetings in the building, it was noted by the applicant's representative that if a large meeting of the Housing Authority is expected, that such a meeting could be moved to an off-site location to accommodate the attendees.

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5. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
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.
7. The nature of the proposed change and use are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
11. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #122-B is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Housing Authority office use shall be in accordance with the submitted application materials, the presentation at the Public Hearing, and shall be in accordance with the floor plan entitled:
  - Floor Plans and Details, Allen O'Neill Homes Community Building, by Crosskey Architects, LLC, dated January 11, 2013, Sheet A-2.
- B. Due to the fact that there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- C. Due to the limited size of the community building, and in order to avoid any parking conflicts, the Commission hereby requires that any meeting of the Housing Authority in which more than twenty attendees are expected to drive to the meeting, shall be moved to an off-site location to ensure sufficient on-site parking and to accommodate the attendees within the building.

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- D. The granting of this Special 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.
- E. 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 these permits as it deems appropriate.
- F. This permit shall be subject to the provisions of Sections 1009 and 1025 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (November 19, 2014). This approval may be extended as per Sections 1009 and 1025.

All provisions and details of the submitted floor plan and the statements made by the applicant's representative shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plan by the Chairman. A Special Permit form shall be filed in the Darien Land Records prior to the Housing Authority moving into this space.

Chairman Cameron read the following agenda item:

**Special Permit Application #117-E/Site Plan, Land Filling & Regrading Application #314, Noroton Presbyterian Church, 2011 Boston Post Road and 2075 Boston Post Road and 25 Noroton Avenue.** Proposal to construct additions and alterations to the existing Church, including modifying the existing parking area and playground; and to perform related site development activities.

Mr. Ginsberg noted that the Commission has a revised draft resolution before it. The main change is Condition B, which requires a bond, and gives more specifics about that requirement. Mr. DiDonna noted the unusual circumstance in this case, and the potentially sensitive issue for the neighbors. He mentioned that this is not a typical application. Mr. Olvany then made a motion to adopt the revised draft resolution as written. That motion was seconded by Mr. DiDonna, and was approved by a vote of 3-0 with three abstentions (Sini, Cunningham, and Voigt). The Adopted Resolution is as follows:

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

Application Number: Special Permit Application #117-E/Site Plan  
Land Filling & Regrading Application #314  
Noroton Presbyterian Church

Street Address: 2011 Boston Post Road, 2075 Boston Post Road, 25 Noroton Avenue  
Assessor's Map #43 Lots #3, #4, & #5

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Name and Address of Applicant &: Noroton Presbyterian Church  
Property Owner: 2011 Boston Post Road  
Darien, CT 06820

Name and Address of Applicant's Representative: D. Bruce Hill, Esq.  
Law Office of Bruce Hill, LLC  
23 Old Kings Highway South  
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing Church, including modifying the existing parking area and playground; and to perform related site development activities.

Property Location: The subject properties are located on the northwest corner formed by the intersection of Boston Post Road and Noroton Avenue.

Zone: R-1/3

Date of Public Hearing: September 24, 2013 continued to October 22, 2013

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

Publication of Hearing Notices

Dates: September 13 & 20, 2013

Newspaper: Darien News

Date of Action: November 19, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: November 29, 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 400, 850, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use is described in detail in the application, the submitted development 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 review of the submitted application materials and related analyses, the Commission finds:

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1. The proposed activity is to construct additions and alterations to the existing Church, including modifying the existing parking area and playground; and to perform related site development activities. The subject property is served by public water and sewer.
2. The EPC approved this request at its meeting on September 18, 2013, as part of EPC #36-2013. The ARB approved revised architectural plans at its meeting on October 15, 2013 (ARB #23-2013). Both approvals are hereby incorporated by reference.
3. One of the reasons for this application is to relocate the existing playground area to be located closer to the building, so that people will not need to cross on-site traffic to get to or from the playground. This will improve on-site safety. Currently, Noroton Avenue access to the property is restricted to eliminate drive-through traffic during certain hours of the day. This application will allow that driveway to remain open at all times. The driveways on Noroton Avenue and Boston Post Road will remain in the same long-time locations. The comments received from the Traffic Authority note that "A substantial upgrade to internal traffic flow is acknowledged."
4. As part of this application, the playground will be relocated to the front of the property on a temporary basis during the multi-year construction process. As part of that playground relocation, a six foot high fence will be installed around the playground for safety and security. Although that six foot high fence is within the front yard setback, the Commission hereby approves it as a temporary feature during the construction process. It is not a permanent part of this plan, but rather, a temporary solution to a safety and security issue.
5. Information was presented regarding the existing parking. It was noted that an agreement is in place with Hindley School across the street for use of their parking lot during very large special events. The Commission finds that the parking is sufficient and meets the Regulations. There are existing parking spaces that are too close to the property lines, this application rearranges and modifies the current parking lot, and does not have parking come any closer to the western property line than existing conditions. Some of the new parking spaces will be created using porous asphalt.
6. The applicant has proposed to address stormwater management and water quality. The Commission hired Joe Canas of Tighe & Bond to peer review the submitted application. The subject property contains an existing stormwater detention basin in the northwest corner of the property. The Commission notes the need for the applicant's engineer to prepare a Drainage Maintenance Plan, and 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.
7. The proposed activities at the Church are not proposed to change as part of this application. Because this is a Special Permit use, any changes in the Church's activities requires an amendment of this Special Permit.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

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9. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
10. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #117-E/Site Plan and Land Filling Regrading Application #314 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the following plans submitted to the Commission:
  - Site Development Plan depicting 2011 Boston Post Road, prepared for Noroton Presbyterian Church, by Redniss & Mead, scale 1"=30', dated October 22, 2013, Drawing No. SE-1.
  - 2011 Boston Road, prepared for Noroton Presbyterian Church, by Redniss & Mead, scale 1"=30', dated August 16, 2013, Drawing No. SE-2, SE-3, SE-4A, SE-4B, SE-4C, SE-5 SE-6, SE-7.
  - Planting Plan Noroton Presbyterian Church, by Jay Fain & Associates, LLC, dated 8-14-13, Sheet L-1.
  - Addition & Alterations, by Dennis Kowal Architects, dated 14 Aug 2013, last updated 10-7-2013, Sheet No. A.1.6, A1.7, A4.1, A4.2, A4.3, A4.3A, A4.4, A4.4A.
- B. Due to the specific nature and location of this project, and the fact that the work activity is proposed over a multi-year period, the Commission hereby requires that a \$15,000 performance bond or other similar surety be posted with the Planning & Zoning Department. This bond is to assure the proper operation and function of the sediment and erosion controls; for the proposed drainage system modifications; and the proposed plantings that benefit the residential neighbors to the north and/or west. Up to one-third of this bond may be returned to the Church once the plantings have been installed, and written certification to that effect has been submitted. If any of the plants do not survive, they must be replaced by the applicant. Another one-third of the bond may be returned by the Commission after the stormwater management installation has been completed along with associated certification from a professional engineer (see Condition F, below). The final one-third of the bond may be returned three months after the Certificate of Occupancy is issued for the building.
- C. The Commission has received comments from the Darien Traffic Authority--Follow MUTCD requirements for parking and signage. That requirement is hereby a condition of this approval. Similarly, the Fire Marshal has required that a fire hydrant be installed. That too, is a requirement prior to the issuance of a final Certificate of Occupancy for this project.
- D. During construction, sedimentation and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction activity. 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.

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- E. A Drainage Maintenance Plan was submitted to the Planning and Zoning Office for the proposed drainage system. The Drainage Maintenance Plan requires the property owner and all subsequent property owners of 2011 Boston Post 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 for the proposed additions and alterations.
- 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 Occupancy for the new addition, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and stormwater management have been completed in compliance with the approved plans referred to in Condition A, above.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. The granting of this Special Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the State of Connecticut DOT for any work that is within their jurisdiction.
- I. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within two (2) years of this action (November 19, 2015). This may be extended as per Section 1009.

All provisions and details of the plan 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. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void. There being no further business the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved. The meeting was therefore adjourned at 10:05 P.M.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning Director

David J. Keating  
Assistant Planning & Zoning Director