

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JANUARY 24, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Conze, Spain, Cameron, Hutchison, Voigt, Cunningham

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat  
Channel 79

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**PUBLIC HEARING**

**Special Permit Application #60-J, Country Club of Darien, 300 Mansfield Avenue.** Proposing to clear an existing area in the southwest corner of the Club property, and use it for the growing of turf and trees for future transplanting onto the golf course, and perform related site activities. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Assessor's Map #5 as Lot #40, R-2 Zone.

Mr. Cunningham recused himself from this matter and left the meeting room.

Tim O'Neill of the Country Club of Darien explained that they propose to clear an overgrown area of approximately 38,000 square feet of land in the south west portion of the club property. This area will then be used to grow grass and trees that will be transplanted to other portions of the golf course as needed. The nursery area is not within any wetland or watercourse or the regulated areas around any wetland or watercourse. Approximately 11 large trees, varying from 8" to 32" caliper, will be preserved around the perimeter of the area. Mr. O'Neill said that having a tree and grass nursery on a golf course is a common practice. At present they must obtain approximately 10 to 20 truckloads of new turf each year. Having their own turf grown on site will reduce that number by about half. This will reduce the truck traffic into the site.

Mr. O'Neill explained that irrigation pipes will be installed in the area to provide appropriate watering of the nursery stock. Access to the area will be through the golf course rather than through any adjacent property. Mr. O'Neill said that no equipment will be stored in the nursery area and there will be no need for lighting or signs. He said the nursery area will not become part of the golf play area. This would not rule out the possible reconfiguration of the course at some time in the future, but for the time being, the turf and tree and nursery area would be out-of-bounds for golfers. He said that the inclusion of the nursery would not change the number of members within the club. He also noted that the ground slopes downhill from the neighboring properties into the remaining portion of the golf course and thus, there will be no change in storm water runoff from the nursery area toward any neighbors.

Mr. Ginsberg explained that the golf club is a Special Permit use in the residential zone and changing this area from an un-kept, natural area to a use related to the golf course does require review and approval from the Commission. This is based partially on the size of the area, which is approximately three-quarters of an acre, and the fact that it will look very different from what people have been used to. Mr. Hutchison noted that if this were a single-family residence, which is a permitted use in the

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 2 OF 12

residential zone, it would not need any Commission review or approval, because there is no regrading involved and storm water is managed. Mr. Ginsberg agreed, and said that in some cases, it is difficult to know where to draw the line between what is already part of the golf course use and operation versus a new use or activity that would need approval from the Commission. In this case, they are changing a large, noticeable area from being an unused area within the special permit to a somewhat active use with new plantings, maintenance and transplanting of the trees and the turf.

Mrs. Cameron noted that parts of the area have apparently been used as a dumping ground by neighbors for their own yard waste. It needs to be cleaned up and properly maintained.

In response to questions, Mr. O' Neill reiterated that there will be no equipment stored in the area. All of the golf course equipment is maintained in a new maintenance area that is located on the east side of the golf course.

Mr. Spain said that the proposed nursery activity does constitute a new use of that particular area, but it seems to be a very proper, ancillary use to the existing golf club. It seems appropriate that there be a place where the club can grow turf and trees on their own site for transplanting elsewhere on the golf course.

In response to a question, Mr. O'Neill said that the nursery area will not be part of the play area for golfers. He also said that **the trees and turf will be transplanted to other parts of the Club's property. They will not be sold to other people like a commercial nursery would do.**

Mr. Richard Hodges of 248 Mansfield Avenue said that he submitted a letter objecting to the proposed activities. Commission members confirmed that they had received and reviewed the letter. Mr. Hodges believed that the nursery would become a commercialized activity next to residential neighbors. He said that more chemicals would be sprayed in the area and that this is inappropriate because it is so close to neighboring residential properties. He said that it is akin to clearing a marshland to use it to transplant trees and that the proposed nursery area is very close to the neighbors. Mr. Spain responded that this is not a commercial nursery that would sell to other clubs or other people, and it is not a vehicle maintenance area. The maintenance buildings for the club are on a different part of the property.

Mr. Conze said that the turf would be mowed on a regular basis and the neighbors would hear the lawn cutting equipment just as they would on other parts of the golf course. They would also hear or see a back hoe when it is used to plant or transplant the trees. He said that growing trees and grass does not seem to be detrimental to residential neighbors.

Mr. Spain said that the pictures indicate that since the 1980's the area has become overgrown. This work would restore it to the previous state or condition. It could then be maintained in an appropriate manner. Mrs. Cameron said that she thought that the Country Club of Darien had obtained Audubon certification for sound environmental management. Mr. O'Neill confirmed that they are one of the few golf courses that had been so recognized.

There being no further comments from the public, the following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 3 OF 12

Chairman Conze read the following agenda item, and Mr. Cunningham returned to the meeting:

**Coastal Site Plan Review #50-C, Flood Damage Prevention Application #39-C, Land Filling & Regrading Application #271, Steven K. & Lisa B. Eppley, 6 Contentment Island Road.**

Proposing to raise (elevate) the existing residence, garage and driveway areas, replace the swimming pool, upgrade the septic system, and perform related site development activities within regulated areas. The subject property is on the west side of Contentment Island Road approximately 300 feet south of its intersection with Tokeneke Beach Drive, and is shown on Assessor's Map #67 as Lot #64, in the R-1 Zone.

Jeffrey McDougal of William Seymour & Associates said that this project has been discussed for several years because of the flood hazard area and numerous regulatory jurisdictions, including the Town and Connecticut Department of Energy and Environmental Protection (DEEP). The existing house and pool are in the Flood Hazard Zone. The size and location of the house are a restricted due to the septic system, which is located between the street and the house. They have obtained variances from the Zoning Board of Appeals to raise up the house, pool and the level of the garage to be above the expected flood level.

The new septic system will be much better than the existing septic system but because it will lack a reserve area it is not compliant with all of the Health Code requirements. The house will be elevated to be above the expected flood level. To accomplish this, they will be removing part of the house, but the first floor framing and floor will remain. The height of the foundation will be increased. As the house is reconstructed, a second floor will be added. A new retaining wall will be built outside the perimeter of the house to create a plateau so that the house will no longer be touched by flood waters. A small entry addition will be built at the front of the house to provide access into the elevated house. The existing building coverage of 13.8% will be increased to 15.9% of the lot area. This is due in part to the large eaves and overhangs that will be created. Other energy efficient aspects of the project include solar energy, insulation, cisterns to collect runoff water, eaves to keep cool and a smaller swimming pool.

In response to questions, Mr. McDougal said the existing house has three bedrooms and the proposed house will also have three bedrooms. The new septic system will be adequate for a three bedroom house but is not large enough for a four bedroom house. Mr. McDougal mentioned that the applicant owns the property, and they will be owner occupants of the house. The lot was created in 1959 and contained one acre of land. As mean high water has risen and some parts of the coastline have eroded, the lot has become smaller and the side boundary lines have changed. Part of the plan submitted to the Connecticut Department of Energy and Environmental Protection (DEEP) includes stabilizing the shoreline. That application is still pending. He said that there is an existing dock on the property which has been permitted by the town and DEEP.

Mr. McDougal said that the first floor level of the house will be raised by approximately four feet. They are also raising the grade of the garage and raising the driveway as it proceeds from the street to the garage. This design has been coordinated with the septic system design so that effluent will flow into the underground leaching fields in the front yard. The new fill will accommodate the new septic system so that it is higher relative to the level of groundwater. Small retaining walls are needed in the front yard to minimize the fill from spreading towards the shoreline. The pool will be raised to elevation 11.1 feet, which is not as high as the floor of the house but it is higher than the present pool

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 4 OF 12

and requires less filling than if it were equal in height to the floor of the house. He said that no retaining walls will be built at the water's edge, while retaining walls will of course be built around the perimeter of the house and the pool so that those will be built on a pedestal with minimized flooding. Some steps from the new elevation of the pool would need to be installed to get down the existing grade at the outside of the retaining wall. He said that the house currently has a crawl space and that crawl space would need to remain, but would be higher.

Mrs. Cameron expressed concern about the possible compaction of the ground at the septic system during the construction process. If it is compacted, the soil will not accommodate the septic system. John Martucci, PE, said that they are aware of the need to avoid compaction of the septic system area. They will protect the area if possible, but before they import the special septic system fill they will make sure that the health Department is satisfied. The septic system will be one of the last aspects of the site work. He said that the area of the septic system complies with the Health Department requirements, but there is not an adequate reserve area, which would be a typical requirement for a new house.

John Roberge, Professional Engineer, explained that he has been working on this design and dealing with the Connecticut DEEP. In response to a question, he said that the work at the water's edge will utilize hand excavation rather than large machinery. He said that the permits for work at the water's edge are currently pending with the DEEP. Part of that work will involve removal of the Phragmites, which is an invasive plant. They will be salvaging the Spartina and High Tide Brush and replanting the area with similar, appropriate vegetation.

Jeff McDougal said that Geo-thermal wells will be used on the property. They will be placed on the north side of the house but the actual location will depend on site specific conditions. The plans had initially shown the geothermal wells to be on the south side of the property and thus the maps will need to be revised. They will also revise the plans to reflect the condition of the Zoning Board of Appeals variance that the swimming pool equipment pad be relocated. In response to questions, he said that he did not think that the geothermal wells would require approval from the Connecticut DEEP but he will review that question with staff in Hartford. He said that he has worked on other projects that have similar geothermal wells installed in coastal areas and they were reviewed by the Connecticut DEEP but did not require a permit from the State.

Mr. McDougal said that the project implementation can not start until they have received final approval from the Town and the Connecticut DEEP and the project will take quite a while to complete. He asked that the Commission to grant the permit for a two year time period (rather than the typical one year approval) to eliminate the need to come back to the Commission for an extension after the first year.

Mr. Ginsberg noted that the application had been referred to the Connecticut DEEP for review and their comments indicate that the slope stabilization work on the shoreline does need DEEP permits. Otherwise, there are no objections or concerns regarding the proposed elevation of the house and the replacement of the septic system and related work. The DEEP also indicated that it would be okay with them if the public hearing was closed.

Mrs. Cameron noted that they are adding approximately 1,000 square feet of new impervious surface area. She asked how the storm water runoff will be managed. Mr. McDougal replied that the cistern system will be used to collect storm water runoff from the roof of the house. John Martucci said that right now, all of the storm water from the impervious surfaces flows directly to the shoreline and into

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 5 OF 12

Scott's Cove. The new gutters and leaders on the house will direct some of that water into the cisterns, the other water will be dispersed in the landscape areas. He said that detaining storm water runoff is not appropriate due to the location of the property. He said, however, that water quality management is important. He said the driveway will be compacted gravel, but it will not absorb water. Mr. McDougal said that most of the new driveway will be gravel, but the area near the garage will be paved.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the Public Hearing regarding this matter. That motion was made by Mr. Hutchison, seconded by Mrs. Cameron and was unanimously approved.

At about 8:53 p.m., Chairman Conze then read the following agenda item:

**Coastal Site Plan Review #269, Flood Damage Prevention Application #305, Land Filling & Regrading Application #269, Francis & Catherine Gallagher, 32 Pasture Lane.** Proposing to raze the existing residence and detached garage, and construct a new single-family residence with attached garage, and perform related site development activities within regulated areas. The subject property is on the southeast side of Pasture Lane approximately 2,300 feet east of its intersection with Nearwater Lane, and is shown on Assessor's Map #51 as Lot #57-A, in the R-1 Zone.

Attorney William Hennessey, with offices at 707 Summer Street in Stamford, noted that they had provided certificates of mailing to neighboring property owners. He said that this property is located in a one acre zone but contains over an acre of land. It is a rear lot that is adjacent to the Darien River. The top of the driveway is at elevation 31, and then the land slopes steeply down to the house location and to the seawall. The top of the seawall is at elevation 7 or so and the bottom of the seawall is at elevation 3. The house on the property was built in the 1970s and it looks like a one-story ranch when viewed from the driveway, yet it looks like a two-story house when viewed from the rear. He said the floor plan is such that the bedrooms are located in the basement or lower level of the structure. He said that the utilities, such as the heating and electrical systems, are located in the basement, which is below the expected flood level. A variance was granted in the 1970s for the garage to be located within the required front yard. The house is located in the Flood Hazard Zone and the extensive renovations proposed by the Gallaghers would be "substantial," as defined by the Regulations. Thus, the result of this substantial renovation would require that the entire house be brought into compliance with the Flood Damage Prevention Regulations. The property is also within the Coastal Area Management Review area and the extent of filling and regrading will require Special Permit approval from the Planning & Zoning Commission, in addition to the Flood Damage Prevention approval necessary for the work in the flood zone.

Mr. Hennessey explained that the plan is to take down the house to the foundation level, fill and regrade around the house to raise the ground level so that the present walk-out basement will become a fully enclosed basement, and then rebuild the house on this new platform that is above the expected flood level. Approximately 420 cubic yards of fill will be needed around the back side of the house (between the house and the River). The average depth of this fill will be four feet. The existing seawall will be unchanged and the new fill will be graded down to the top of the seawall.

Mrs. Cameron expressed concern about the soil conditions for the area where the drainage cultec units will be installed. She asked if the soil in that area was tested, with respect to its ability to absorb storm water. Mr. Roberge said that the area where the cultec unit will be installed will be

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 6 OF 12

imported fill that will be free draining sand and gravel. This fill is necessary to change the flood zone boundary line and make sure that the house location will be above the expected flood level.

Revised plans were submitted to reflect the fact that the Zoning Board of Appeals did not approve the requested variance, and to clarify the location of fill behind the house. John Doherty said that he dug the test holes in the area. He said that at a depth of four feet, they ran into sand and gravel which is a well drained soil condition. The area test data is on the revised map. Mr. Hennessey said that the fill on the water side of the house will raise the ground level to approximately 13.5 feet; thus, the entire house area will be above the expected flood zone.

Mr. Hennessey said that the Zoning Board of Appeals denied the variance request to expand the old garage. This has resulted in revised plans that are reflected on the revised map submitted to the Commission. He noted that a new turnaround area adjacent to the garage is now shown on the plan. The house will be expanded by approximately 1,800 square feet of Building Coverage. Part of the plan will be to eliminate the on-site septic system and connect to the existing sanitary sewer in the street. He said that the project involves raising the ground level so the house is no longer in the flood zone, improving the storm drainage runoff so that it will be treated before it is discharged toward the watercourse, and connecting the house to the sanitary sewer instead of septic system. Mr. Doherty said that the ground water testing was done not during high tide or during low tide. He said that there was no water seeping in when they excavated to a depth of four feet.

Mr. Hutchison questioned the number of trees being removed and asked if new trees were being replanted. Mr. Hennessey said that the plan reflects the fact that many of the large trees on the site are not healthy and need to be removed. He submitted a letter from a tree expert documenting the health status of many of the trees. He said that some of the trees are growing in a tilted manner and need to be removed before they fall down. When these large unhealthy trees are removed, the understory of smaller trees will then be allowed to thrive.

Mr. Spain noted that the plans will result in fill being around the backside of the existing walk-out basement. The basement will no longer be a walk-out basement but will be fully surrounded by natural soil and fill. Mr. Hennessey concurred, and said that the bedrooms will be removed from the basement and will be located on a new second floor to be constructed. The first floor of the house will be at about Elevation 14 (which is above the expected flood level) and the two primary levels of living space will be the first floor and the new second floor.

Mr. Ginsberg said that the plans and application materials had been referred to the Connecticut DEEP. They responded with an email indicating that they found that the proposed plans were not inconsistent with the Coastal Area Management Policies.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze then read the following agenda item:

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 7 OF 12

**Coastal Site Plan Review #270, Flood Damage Prevention Application #306, Land Filling & Regrading Application #270, Paul & Amy Darrah, 11 Peabody Lane (aka 66 Salem Straits).**

Proposing to: raze the existing residence and construct a replacement single-family residence with garage and pool; connect to the Town sewer system and abandon the existing septic system(s); raze the existing second residence and detached garage on the property; and perform related site development activities within regulated areas. The subject property is on the east side of Peabody Lane approximately 1,000 feet northeast of its intersection with Hawthorne Road (Salem Straits), and is shown on Assessor's Map #62 as Lot #60, in the R-1 Zone.

Mr. Ginsberg explained that the application involves the substantial renovation of an existing house that is adjacent to the shoreline. The applicant needs variances from the Zoning Board of Appeals due to the closeness of the house to the property lines. The Zoning Board of Appeals started the Public Hearing regarding this matter and it will be continued in February. He said that the Commission should at least discuss the application so that they can express any concerns or issues to the applicant and the Public Hearing by the Commission will need to be continued.

Attorney Wilder Gleason represented the applicant and explained that there is an existing house on this lot that has a very unusual shape. There is currently a second dwelling on the property and part of the plan involves removing that second dwelling and the garage. Some of the existing house will be removed but other portions, close to the property lines, and parts of the foundation will remain. Attorney Gleason submitted a revised colored site plan. He said that the proposed swimming pool needs a setback variance and some of the work on the house needs a setback variance. Part of the plan is to fill and regrade around the proposed swimming pool. He said that a new, pervious concrete driveway will be installed so the water will be able to soak through the driveway and into the ground rather than being concentrated and discharged elsewhere. He said that there is no need to detain storm water run off due to the location of the property immediately adjacent to Long Island Sound. A proposed rain garden area will be provided for water quality and water treatment before it is discharged into the Sound.

Mr. Hutchison questioned the location of the flood vents on the water side of the existing structure that has a very substantial foundation. Mr. Gleason said that the flood vents are necessary to provide pressure relief in accordance with the Flood Damage Prevention Regulations. He said that the wall in that area has been re-grouted and maintained within the past few years.

Mrs. Cameron noted that larger scale maps are necessary in order to read the details provided. Mr. Gleason said that he will address that issue.

Commission members noted that the Zoning Board of Appeals has not yet rendered a decision regarding this application and therefore it would be appropriate to continue the Public Hearing regarding this matter on Tuesday, February 28 at 8 P.M. in Room 206.

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

**Special Permit Application #271, David Flagg, 90 Holmes Avenue.** Proposing to establish a home-based business teaching children's arts and crafts classes. The subject property is on the west side of Holmes Avenue approximately 380 feet south of its intersection with West Avenue, and is shown on Assessor's Map #48 as Lot #120, in the R-1/5 Zone.

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 8 OF 12

David Flagg, property owner, explained that he and his wife Mercedes are proposing to establish a home business that will consist of teaching up to six children classes in arts and crafts. The classes will start no earlier than 9:30 A.M. and will be concluded by 12 noon. He said that there will be no more than six children in the class and that no signage will be needed because the street address is clearly displayed on the mailbox by the street. Classes will be conducted indoors and will be no longer than two hours in duration. The classes will be run by Mercedes Flagg and up to one helper. He asked that the approval be granted on a one-year trial basis.

Mr. Spain asked if a State license would be necessary. Mr. Flagg said that he did not think so. Mr. Ginsberg said that the comment from the Darien Health Department indicated that they have no problems with the proposed use, and as long as the classes do not exceed three hours per day they would not appear to need a license from the State.

Mrs. Cameron said that maneuvering within the driveway and the turn-around area might be difficult. There is a long driveway that leads from the street into this rear lot. Mr. Spain said that the property is close to the railroad tracks and if children get loose outside, the kids might climb up the embankment to the railroad tracks. Mr. Flagg said that the classes will be conducted inside the house and the children will not be allowed outside. He did not think it was likely that any of the children would climb up the embankment towards the railroad tracks. He said that they could stagger the start time of the classes so that not all of the parents would be dropping off and picking up their children at the same time. He said that he thinks the driveway and turn-around area are sufficient to allow people to pull off the street and into the site and then turn around and exit the site. Mr. Spain said that it is important that they control vehicle flow and maneuvering.

Virginia Halstrom, at 91 Holmes Avenue, submitted a petition signed by a number of the neighbors in opposition to the proposed Special Permit. She said that this is a neighborhood that is strictly residential in character and they are opposed to any business use because it could start to change the character of the area. They do not want to start creeping business uses in their residential neighborhood. She said that they are concerned about traffic and parking. She also noted that a portion of Holmes Avenue is actually a private street.

Martha Hoffman, of 84 Holmes Avenue, said that she has been a resident since 1964. She is very concerned that, if this business use is allowed, other neighbors then will want to use their properties for commercial purposes as well. She said that sometimes when West Avenue is backed up, Holmes Avenue is used as a detour or cut-through.

There being no further comments, the following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

**Business Site Plan #275-A/Special Permit, Phil's Grill, 340 Heights Road.** Proposing to construct an addition to the existing restaurant and to perform related site development activities, and to establish additional outdoor dining, both within the Noroton Heights Shopping Center. The subject property is

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 9 OF 12

located on the north side of Heights Road, approximately 175 feet east of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #75 as Lots #22, #23 and #24, in the DC Zone.

Attorney Wilder Gleason explained that a Special Permit had been granted by the Planning & Zoning Commission for the establishment of Phil's Grill at 340 Heights Road. That restaurant has been open since last year. They are now requesting the slight expansion at the entranceway to the restaurant. All of the construction would be underneath the existing roof area, and would allow for a 115 square foot entrance foyer and waiting area. The rearrangement of the entrance will create a separate bar area so that children entering the restaurant do not need to pass through the bar area to get to the dining area. He explained that they have obtained approval from the Architectural Review Board for the design of the addition. The other change that they are proposing would allow four additional tables and eight additional seats on the outside of the restaurant. There is an existing outside dining area that now consists of 8 tables and 32 seats and it is surrounded by a fence-type structure. The new tables and chairs would be immediately adjacent to the windows of the restaurant and would be under the roof overhang. He noted that there would be no change to the roof area as part of the enclosure for the entrance way or the new outside tables and chairs.

Project Architect Steve Jones said that they are adding seven seats on the inside of the restaurant, and rearranging the existing seating pattern. They are also proposing to add eight seats on the outside of the restaurant. Mr. Gleason said that a letter of support from Mr. Perske has been received and he gave it to the Commission.

There were no comments from the public on the application. The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

**Subdivision Application #612, Estate of Mary C. Ewing, 203 Long Neck Point Road.** Proposing to subdivide the 203 Long Neck Point Road property into two 1-acre lots. The subject property is located on the east side of Long Neck Point Road, approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road and is shown on Assessor's Map #61 as Lot #9 in the R-1 Zone.

Mr. Cunningham recused himself in order to avoid any perception of a conflict of interest and he departed the meeting.

Mr. Ginsberg explained that there are two steps to the proposed modifications to this existing 4.459+/- acre residential parcel at 203 Long Neck Point Road. The first part will be discussed as part of the General Meeting and involves the first split or "free cut" of this property into a 2 acre piece adjacent to the street and a 2+ acre parcel adjacent to Long Island Sound. Approval by the Planning & Zoning Commission of the free cut is necessary due to the width of the access strips from Long Neck Point Road to the proposed rear lot. When the proposed access strip is less than 50 feet in width (as is proposed in this particular situation), the applicant must obtain approval from the Planning & Zoning Commission at a General Meeting after demonstrating that the access strip will be adequate with respect to grade and sight lines and other safety factors. The second aspect of the proposed project is to subdivide the remaining 2-acre western piece of property that is adjacent to

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 10 OF 12

Long Neck Point Road into two building lots, each one-acre in size. That proposed subdivision requires the Planning & Zoning Commission conduct a Public Hearing before such action is taken.

Attorney Amy Zabetakis, on behalf of the applicant, explained that the entire property is approximately five acres in size and is located on the east side of Long Neck Point Road. It spans the distance between Long Neck Point Road and Long Island Sound. It has never been subdivided since 1951, and in accordance with the January 26, 2000 letter from Planning & Zoning Director Jeremy Ginsberg it is eligible for a free cut, or first division, into two separate parcels. They have designed two separate access strips from Long Neck Point Road to the proposed rear lot (adjacent to Long Neck Sound), each access strip would be 25 feet in width. One access strip would be to the north and one would be to the south. They need approval from the Planning & Zoning Commission because each access strip would be less than 50 feet in width.

Assuming that the free cut is approved by the Planning & Zoning Commission, this application to the Commission would then involve the subdivision of the front two acre parcel into two separate building lots, each one acre in size. The existing house and structures would need to be removed prior to filing the subdivision map in the Darien Land Records. The submitted maps and plans show the conceptual locations of the houses and driveways and development activities that could take place on the front parcels. Mrs. Zabetakis noted that the current owner is not proposing to build any driveways or structures at this time; they are only proposing to obtain approval from the Commission for the driveways to the rear lot and the subdivision of the front parcel. She said that two access ways are left from the street to the rear lot so that if a future owner wants to divide that property into two separate building lots, they would have the ability to apply to the Planning & Zoning Commission to do so.

Mr. Ginsberg noted that sanitary sewer is now available on Long Neck Point Road and that the two proposed front lots are fairly flat and would be serviced by public water. He said that the sight lines for the new driveways are shown on the map and the grades of the access strips to the rear lots are modest. Attorney Zabetakis said that under Section 339 a determination by the Planning & Zoning Commission about the feasibility of the new driveway within the access strip is necessary.

Attorney Zabetakis said that the subdivision of the front parcel would require the removal of the existing home and swimming pool before the map could be finalized and signed by the Chairman and then filed in the Land Records. She said that each of the proposed lots is fairly flat and there are no wetlands or flood plain on the front lot. Each of the two front lots would be serviced by public sewer and public water. She emphasized that the applicant is not proposing to actually build anything on the front lots.

Mr. Ginsberg noted that any subdivision involving over three acres in this one acre zone does require the preservation of 10% of the land area as open space. In this case, if the free cut is approved, the remaining two acre parcel adjacent to Long Neck Point Road would not be subject to the open space requirement because the area being subdivided is less than three times the minimum lot size required by the zone. He also said that the house and pool would need to be removed before the subdivision map is filed in the Land Records. Attorney Zabetakis said that they are asking for a one year approval to resolve all of the issues and matters involved in the estate and before filing the subdivision map in the Land Records. She said that they had met with the neighboring property owners in an attempt to respond to any of their questions. She said that one of the neighbors had

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 11 OF 12

concerns about the views and screening and other matters. She said that those issues are more appropriately discussed when there is an actual development that is being proposed. She confirmed that there is an existing driveway that travels from Long Neck Point Road through the subject property and goes to a different property at 201 Long Neck Point Road. That driveway is in that location due to temporary permission and it will probably be relocated. She said the owner of 201 Long Neck Point Road knows that he will need to relocate the driveway, but is he waiting to see what happens with this matter.

In response to a question, Mrs. Zabetakis mentioned that the estate has no intention to establish any restrictive covenants or cross-easements on the proposed lots. Mr. Spain said that he wants to make it clear that no view easements or use easements are being established by the proposal or by the Commission's approval of any part of it.

There were no comments from the public regarding the matter. The following motion was made: That the Commission close the Public Hearing regarding the proposed subdivision of the two acre parcel on Long Neck Point Road. The motion was made by Mr. Spain, second by Mrs. Cameron and unanimously approved.

At 10:05 P.M., Chairman Conze opened the general meeting and read the following agenda item:

**GENERAL MEETING**

**Administrative Permit Section 339 #1-2012, Estate of Mary C. Ewing, 203 Long Neck Point Road.**

Request for a new driveway to serve a newly created rear lot. The subject property is located on the east side of Long Neck Point Road, approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road and is shown on Assessor's Map #61 as Lot #9 in the R-1 Zone.

Mr. Ginsberg read portions of Section 339 of the Zoning Regulations concerning the establishment of rear lots. One aspect of the Regulations requires that the access strip from the street to the rear lot be at the standard 50 feet in width. If it is less than 50 feet wide, then the applicant must obtain approval from the Planning & Zoning Commission after demonstrating that grades and sight lines and other safety aspects can be properly accommodated. Mr. Voigt asked if the applicant is required to build the driveway at this time. They are actually only required to demonstrate that a driveway is feasible but they do not need to build the driveway. The Commission reviewed the submitted drawings and plans and concluded that the creation of the rear lot with two access strips, one to the north and one to the south, from Long Neck Point Road to the rear lot does comply with the provisions of Section 339 of the Zoning Regulations.

The following motion was made: That the Planning & Zoning Commission has concluded that both proposed access strips from Long Neck Point Road to the proposed rear lot do comply with the provisions of Section 339 of the Zoning Regulations and therefore it approves the rear lot proposal. The motion was made by Mr. Hutchison, seconded by Mr. Spain and was unanimously approved. Action regarding the proposed subdivision of the two acre parcel adjacent to Long Neck Point Road will be take place at a future meeting.

DARIEN PLANNING & ZONING COMMISSION  
PUBLIC HEARING/GENERAL MEETING  
MINUTES  
JANUARY 24, 2012  
PAGE 12 OF 12

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved. The meeting was adjourned at 10:10 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director

*01.24.2012.min*