

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MARCH 13, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Cameron, Hutchison, Cunningham, Spain

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Conze called the meeting to order at 8:00 P.M. and read the first agenda item:

PUBLIC HEARING

Business Site Plan #146-C/Special Permit, Anthony's Coal Fired Pizza, 319 Boston Post Road.

Proposal to install additional parking with related landscaping and stormwater management; to install outdoor dining on a proposed terrace in front of the existing restaurant; and to perform related site development activities. The subject property is located on the north side of Boston Post Road, at the northeast corner formed by its intersection with Birch Road, and is shown on Assessor's Map #13 as Lots #1 and 2, in the SB-E and R-1/2 Zones. *POSTPONED TO 3/27/2012.*

Chairman Conze announced that the public hearing has been postponed to March 27, 2012.

Chairman Conze then read the following agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #267, Scott Leahy, 117 Leeuwarden Road.

Proposing to fill, regrade, and construct associated retaining walls along the sides and rear of the property, and perform related site development activities. The subject property is located on the west side of Leeuwarden Road, approximately 800 feet south of its intersection with Old Oak Road, and is shown on Assessor's Map #29 as Lot #122, and is in the R-1/2 Zone. *PUBLIC HEARING OPENED ON 1/10/2012. DEADLINE TO CLOSE PUBLIC HEARING IS 3/13/2012.*

Mrs. Cameron excused herself and left the meeting room in order to avoid any perception of a conflict of interest.

Gregory Pidluski of Fuller Engineering and Land Surveying represented the applicant. Mr. Pidluski said that the plans had been revised so that the filling and regrading on the west side of the house will preserve the existing stone wall that is near the westerly property boundary. In the southwest corner, they have revised the plans to add a two-foot wide, two-foot deep stone trench near the top of the existing stonewall so that storm water flowing from the swimming pool area will dissipate and spread within that trench and then will proceed in a sheet flow manner in a westerly direction toward the neighboring property. He said that the stone wall in the northwest portion of the property will be preserved and a new retaining wall will be constructed to hold the proposed fill. A

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 2 OF 9

four-inch diameter perforated spreader pipe will be installed so that water in that area will also be discharged as a sheet flow rather than a concentrated manner.

Mr. Conze asked how long it would be before organic debris clogs up the drainage system, and starts to make the out flow concentrated. Mr. Pidluski said that any materials that get washed through the system would tend to be very fine materials and would continue to be washed down hill rather than to concentrate and clog up the drainage system. He submitted photographs and indicated that the neighboring property owner at 153 Hoyt Street has approximately 300 feet of separation of the proposed filling and regrading and the neighbor's house. There is also a change in grade. He said that the neighbor has mentioned at the previous hearing that a swale needed to be constructed through those woods to carry off the storm water run-off. He submitted a copy of the tax assessor's records indicating the ownership of the neighboring property. Mr. Pidluski said that the swimming pool itself will capture some rainfall as it occurs. Storm water from the roof leaders will be directed into the new infiltrators to be installed in the northwest portion of the property. Those infiltrators will also be adequate to accommodate the annual 12 inch draw down of the swimming pool before it is winterized. Mr. Pidluski said that the evergreen plants will be added on the downhill side of the proposed concrete retaining wall.

Mr. Spain noted that the appearance of this new retaining wall was one concern that seems to have been adequately addressed by the proposed landscaping. He said the primary concern, however, is the run-off from the proposed filling and regrading that will be directed toward the downhill property owner. Mr. Pidluski said that the actual surface run-off will be decreased slightly due to a number of factors, including the installation of the infiltrators, the flattening of portions of the Leahy site so that surface water will be able to soak into the ground more efficiently and the slight reduction of surface run-off due to the drainage system. He said that mathematically he can demonstrate that there is a slight decrease in the storm water flow toward the neighbor but admitted that it would not be noticeable in field conditions. He said that even though they are adding more impervious surface to the Leahy property, there will be no increase in the peak amount of run-off flowing toward the downhill neighbor.

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

At about 8:15 p.m., Chairman Conze then read the following agenda item:

Continuation of Public Hearing regarding Amendment of Business Site Plan #136-B/Special Permit, Dan Dolcetti, 2 Squab Lane, CBD Zone. Proposal to establish a law office on the 1st and 2nd floor of the existing 2 Squab Lane building. The establishment of a 1st floor professional office requires a Special Permit under Section 654d of the Darien Zoning Regulations. The subject property is located on the northeast corner formed by the intersection of Grove Street and Day Street, and is shown on Assessor's Map #73 as Lot #34, in the CBD Zone. *HEARING OPENED ON 2/28/2012. DEADLINE TO CLOSE PUBLIC HEARING IS 4/3/2012.*

Mr. Hutchison excused himself and left the meeting room in order to avoid any perception of a conflict of interest. Mrs. Cameron returned to the meeting.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 3 OF 9

Dan Dolcetti explained that the existing building at 2 Squab Lane is part of a re-development project that is not yet complete. The existing building will be removed as soon as a long term tenant for the proposed building is committed. He said that retail operations are not practical at that location due to the imminent demolition and removal of the structure. The proposed office tenant is a small one person law office and has agreed to take the first floor space on a month-to-month basis. When the new building is slated for demolition, the proposed office tenant will vacate the space and allow the demolition to proceed.

Director of Planning & Zoning, Mr. Ginsberg noted that under Section 1005 of the Zoning Regulations, the applicant must demonstrate that a retail use is not practical or desirable. Mr. Dolcetti noted that the building is isolated from other retail uses and will be demolished in the foreseeable future. There were no comments from the public regarding the application.

After further discussion, the following motion was made: The Planning & Zoning Commission close the public hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved. Mr. Hutchison then returned to the meeting.

Chairman Conze opened the General Meeting, and read the following agenda item:

GENERAL MEETING

Business Site Plan #33-B, Flair Fitness Studios, LLC, 551 Boston Post Road—2nd floor, DB-2 Zone.

Request for extension of approval of class size of 20 during daytime hours, and up to 40 students after business hours.

Mr. Ginsberg noted that the Flair Fitness use was authorized as a replacement for the previous children's activity center that is located on the second floor of the building. In 2011, the Planning & Zoning Commission had temporarily authorized the increase in the number of participants during day time hours and authorized a greater number of participants in the evening hours. That approval expired on February 28, 2012. During the February meeting regarding this matter, the Commission members temporarily authorized the increased number of patrons to continue until the current matter is decided by the entire Commission.

Doug McKay explained that he is a co-owner of the property with his brother, Brian, who has appeared before the Planning & Zoning Commission in the past. Mr. McKay said that he thought the current request was for a two or six month extension and now he finds out that the applicant is requesting an additional 17 months so that the intensified use would coincide with the term of the lease. Mr. McKay said that there are barely 60 on-site parking spaces and allowing the Flair Fitness tenant to use up to 40 or more of those spaces for their large classes would be inappropriate because the residential tenants need parking in the evening and some other tenants are open in the evening. Mr. Hutchison and Mrs. Cameron said that they have visited the site on numerous occasions and have not seen any noticeable parking problem. Mr. Hutchison noted that there has been no third-party testimony or complaints regarding insufficient on-site parking, and it seems to him that it is the landlord's responsibility to regulate the parking of the tenants.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 4 OF 9

Doug McKay said that noise is still an issue even though the applicant has claimed that they have addressed this matter. He said that noise has not been addressed or mitigated.

Mr. Spain said that he had not been able to attend the previous Public Hearing regarding this matter but has watched the recording of the meeting. He understands that the request was originally for a 6 month extension and now the applicant would prefer a 17 month extension so that the Commission's approval would coincide with the end of the lease. He also understands that there are two main issues – the noise and the parking. Mr. Conze said that the lease contains a specific rider indicating that the landlord is aware that the exercise business will involve loud noises and that noise would not be deemed a nuisance. Mr. McKay said that the noise problem is generated not only by the stomping of the exercisers but also the loud level of the music being played. He said that the noise problem has not been corrected. He said that if the Commission is inclined to grant the request, he asked that it only be granted for a six month time period.

Attorney Gleason represented Flair Fitness and said that at one point there was a complaint by Dr. Birsky (a tenant within the building) regarding noise but Dr. Birsky wrote a letter in December indicated that the parking problem had been resolved and there was no mention of noise in that letter. He said that the only current noise complaint seems to be from the landlord and the lease specifically addresses that matter. Mr. Gleason said that he visited the site on Monday evening when there was a 25 student class taking place. He noted that there was plenty of available on-site parking. Mrs. Cameron noted that she heard the loud bass music when she was in the office of another tenant on the property. She did not hear the stomping of the exercisers that has been referred to.

Amy Shelton, operator of Flair Fitness, said that she appreciates the Commission's attention to this matter and needs this matter to be resolved so that she can proceed with her business.

There were no further comments from the public. After a brief discussion, the following motion was made: That the Planning & Zoning Commission extend the past approval for an additional period of approximately 17 months so that it corresponded with the extent of the current lease. Mr. Spain instructed Mr. Ginsberg to summarize in a letter exactly what is permitted and the extent of the Commission's temporary approval. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

At about 8:35 p.m., Chairman Conze read the next agenda item:

Amendment of Special Permit #150-B/Site Plan, Post 53, 0 Ledge Road.

Request to remove existing patio; construct new bluestone patio; install covered pergola with associated plantings and lighting—establishment of “The Giving Garden”; and retain basketball hoop.

Lesley MacAulay, a landscape architect, represented Post 53 and explained the project. The work involves the area to the north and east of the existing building and adjacent to the railroad tracks. The plan is to remove the existing patio and build a new blue stone patio measured approximately 26 feet by 18 feet. There will also be a 10 foot by 10 foot covered pergola, on-site lighting, new plantings and retaining the existing basketball hoop. All of this work requires Planning & Zoning Commission approval because it is a modification of the previously granted

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 5 OF 9

Special Permit #150-B/Site Plan. Part of the plan would establish the “Giving Garden” that will be for recognition of donors.

There were no comments from the public regarding the proposal. After a brief discussion, the following motion was made: That the Planning & Zoning Commission approve the requested modification of the Special Permit and Site Plan in accordance with the submitted plans and drawings. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Flood Damage Prevention Application #243, Land Filling & Regrading Application #172, Ray Koziak, 3 Plymouth Road.

Request to construct a terrace within a regulated area.

Mr. Ginsberg explained that the original approval for the site development in this flood zone area had included the house construction and filling and regrading for a substantial terrace adjacent to the house. When the house was completed and the applicant requested the Certificate of Occupancy for the house, they had not yet started the filling and regrading for the terrace. The approval for the filling and regrading has since expired. The applicant now wishes to proceed with the filling and regrading to create the terrace in accordance with the originally approved plans. The proposed terrace will be at least eight feet from all property lines, as required by the Regulations. The terrace needs Planning & Zoning Commission approval because it does involve filling and regrading within the flood zone. Mr. Ginsberg said that during the review of the plans and the site, it has been noted that a hot tub has been installed on the rear portion of the property; the hot tub counts as additional building coverage and the equipment for the hot tub is below the expected flood level, which is contrary to the Regulations.

The Commission discussed the situation and the following motion was made: That the Planning & Zoning Commission approves the proposed terrace installation, subject to the condition that the hot tub matter be resolved and in compliance before the terrace work starts. The approval for the terrace shall include the normal conditions and stipulations regarding filling within the flood zone. The motion was made by Mr. Hutchison, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit #34-H, Woodway Country Club, 532 Hoyt Street.

Proposed addition to existing residence now owned by Club, and occupied by the General Manager.

Lisette McVey represented the Country Club and explained that she and her husband live in the single-family house that is located on the Country Club property. The proposed work involves building an addition in the rear of the house that will cover an existing patio. Mr. Ginsberg explained that the property is part of the Woodway Country Club even though it is a single family use. If this was a single family house that was not part of the Country Club, the proposed addition would have been handled with an administrative Zoning Permit, but since it is on a Country Club site, which is a Special Permit use, the request to modify this Special Permit has to be acted on by the Planning & Zoning Commission.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 6 OF 9

Mr. Keating said that in his discussion with the contractor, it was noted that they will need to properly manage storm water run-off to avoid any impact to the neighboring properties. That is why the Cultec unit details have been submitted by the contractor. Mr. Keating said that the exact size, number and location of the Cultec units will need to be determined based on the soil and site conditions once the foundation is excavated. Mrs. Cameron mentioned that it might be more appropriate to have an above ground rain garden type of drainage area rather than underground Cultec units. It could be just as effective and could be less expensive.

The following motion was made: That the Planning & Zoning Commission approve the requested modification of the Special Permit to allow the construction of the addition to the rear of the house at 532 Hoyt Street. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #124-F, Dolcetti, Inc., 979 Boston Post Road, CBD Zone.

Request for a new tenant in 975 square feet of the second floor, in the space formerly occupied by Kids Care. It will be for additional space for the salon now on the first floor. The Commission's approval for this building requires that the Commission review all changes in tenants due to the presence of a joint parking agreement.

Mr. Dolcetti explained that the existing hair salon located on the first floor wants to expand the services that they offer to clients. They are proposing to take space that has been formerly been occupied by the offices of Kids Care, which had been on the second floor. In that space they will offer tanning and additional beauty services. The number of employees will remain the same. In response to questions, he noted that the employees park off-site (generally at the Mechanic Street parking lot) or take the train or public transportation to the site. He said that there is plenty of customer parking on this property to accommodate the customers of all of the businesses on site. Since the shared parking arrangement needs Special Permit approval by the Planning & Zoning Commission, each and every tenant use must be submitted to the Commission for their review and action.

There were no comments from the public regarding the application. After further discussion, the following motion was made: That the Planning & Zoning Commission authorize the proposed second floor use of the beauty salon in accordance with the submitted materials and the explanation provided at the meeting. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved.

At about 8:50 p.m., Chairman Conze then read the following agenda item:

Amendment of Special Permit #66-L/Site Plan, Darien YMCA, 2420 Boston Post Road.

Proposed changes to the Site Lighting, Site Amenities and Parking plans for the YMCA.

Chris McCagg of James G Rogers Architects reviewed his March 8, 2012 letter regarding changes and modifications to the YMCA site plan. These changes and modifications are due modifications to the building that were previously approved by the Planning & Zoning Commission and a closer examination of the lighting conditions that would exist. Landscaping changes involve little things

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 7 OF 9

like making egress pathways connect with new exit doors and creating concrete stairs with rails to accommodate the grade change rather than increasing the amount of fill. He noted that in some locations they are requesting changes to better maintain the existing screening between the neighboring properties and the proposed activities on the YMCA site. Maintaining these trees will reduce slightly the amount of play area on the pond side of the new nursery school, but it will preserve numerous trees. Mr. McCagg reviewed the plans and discussed the establishment of a donor pavement program area with amenities.

With respect to lighting, Mr. McCagg said that the lighting pattern is slightly reconfigured and there would be a total of 15 proposed double light posts. Eight new bollard lights would be constructed near the nursery school entrance and new lighting would be installed at the flag pole. The lighting in the parking lot and the lighting at the flag pole would go off at night. Mr. Conze questioned whether the neighbors will see the actual light bulbs or the source of the illumination. Mr. McCagg said that shields and containment and shrouds were required by the Planning & Zoning Commission on the lights closest to the neighbors. The YMCA will direct all of the lights in a downward pattern and will provide shields and shrouds as needed. Mr. Conze noted that if there is a problem, it would need to be fixed so that the expansion of the special use and activities on this site would not affect the neighbors who are very close to this facility.

There were no comments from the public regarding the proposed modifications. The following motion was made: The Planning & Zoning Commission has reviewed and hereby approves the modifications with respect to site development, landscaping and lighting as noted on the revised plan dated March 8, 2012 and the accompanying letter of March 8, 2012 from Mr. McCagg. The motion was made by Mrs. Cameron, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Coastal Site Plan Review #190, Flood Damage Prevention Application #203, Chris & Tina Piccaro, 35 Beach Drive.

Request to place a generator and underground propane tank within regulated areas.

Mr. Ginsberg explained that the proposed generator and propane tank are to be located between the house and the waters of Holly Pond. Approval from the Environmental Protection Commission (EPC) was obtained last week, and since the work is within the 100 foot critical area adjacent to mean high water, the zoning approval must come from the Commission, not from the staff. Commission members noted that the work is not within the flood hazard zone, but it is within the coastal area management zone. A previous approval had been granted for development of this property in 2004, and this is considered a minor amendment of that approval. Commission members noted that the location of the generator and tank is well designed and properly placed on this particular site. It was also noted that treating this as an amendment to a past approval is a simple and appropriate way to process this application. The following motion was made: That the Planning & Zoning Commission approve the requested location of the generator and propane tank in accordance with the submitted application materials. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 8 OF 9

Site Plan Application #280, Special Permit #268, Baywater 745 BPR, LLC, 745 Boston Post Road, DB-1 Zone.

Informal discussion regarding possible amendment of Section 585c of the Darien Zoning Regulations.

Mr. Maslan has previously discussed with the Commission on an informal basis the ways to deal with a modification of the development to take place at 745 Boston Post Road. Commission members believed that the changing of definitions would be a complicated and inappropriate way of dealing with the modification. Chairman Conze asked Commission members to forward any comments to Director of Planning & Zoning as soon as possible.

Discussion, deliberation and possible decision on any public hearing matters closed on March 13, 2012.

Scott Leahy, 117 Leeuwarden Road: Commission members believed that the proposed drainage system would be adequate to avoid concentration of additional water on to the neighboring property owners but noted that the maintenance of that system would be appropriate. Sheet flow of water on to the neighboring property owner would be acceptable but concentration of water needs to be avoided. The Department staff will draft a resolution for action at a future meeting.

Dan Dolcetti, 2 Squab Lane: Commission members agreed the proposed office use on the first floor in this particular circumstance would be acceptable due to the unique circumstance of the site and its surroundings. Staff is to draft a resolution for consideration at a future meeting.

Chairman Conze read the following agenda item:

Approval of Minutes

February 28, 2012 Public Hearing/General Meeting

Two minor corrections were discussed, and all members agreed that they should be accepted. The following motion was made: The Planning & Zoning Commission approve the revised and corrected minutes of February 28, 2012. The motion was made by Mr. Cunningham and seconded by Mrs. Cameron. All voted in favor except Mr. Spain, who abstained because he had not attended the meeting on February 28, 2012.

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

Mr. Ginsberg noted that he had three items to discuss under “Other Business”—2 Squab Lane; Kensett Lane; and Allen O’Neill. The following motion was made: To consider three items under Other Business. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

2 Squab Lane:

Mr. Ginsberg explained that the developers of 2 Squab Lane have requested an extension until 2015. He said that the State Statutes allow them to request an extension for that length of time and the Commission can decide what, if any, extension to grant. He said that the original approval for this project was granted in 2006. Mr. Spain said that the stairway leading from the stairway train

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
MARCH 13, 2012
PAGE 9 OF 9

station parking lot to the private parking lot on the subject property is an important aspect of the development of this area. He wants that stairway to be constructed sooner, rather than later. Other Commission members agreed. It was suggested that the Commission grant the extension until December 31, 2013 to allow the developers to obtain a tenant for the new building and to proceed with construction. If further extension is necessary at that time, it will be considered, but the extension at this point is only until December 31, 2013. All members agreed to the December 31, 2013 extension—except Mr. Hutchison who abstained.

Kensett Lane Project on Hoyt Street:

Mr. Ginsberg explained that the sanitary sewer system within the Kensett Lane development on the east side of Hoyt Street and north of Wakemore Street needs to be modified. The developers are working with the Sewer Commission to accommodate the changes made within the development and to connect the sanitary sewer directly to the Hoyt Street pumping station, rather than creating a new pump station within the project. Other minor modifications are incorporated. Mr. Ginsberg said that these modifications appear to be consistent with the Planning & Zoning Commission's Mandatory Referral Report that was granted in 2009 regarding this project. All Commission members agreed that these modifications were minor and are acceptable to the Planning & Zoning Commission provided the applicant continues to work with and resolve all the matters with the Sewer Commission.

Allen O'Neill Housing Project update:

Mr. Ginsberg noted that the Allen O'Neill housing project has started. The first thing that is to be installed is the storm drainage along the eastern portion of the property to protect the Fairfield Avenue neighbors from any potential drainage impacts. The Housing Authority is responsible for coordinating all of the construction work and for the process of moving existing tenants out of existing spaces and relocating them during the construction process. While that is taking place, temporary storage containers will be located on the property and demolition of existing buildings is likely to start by the end of this month. No action from the Commission is necessary regarding this matter.

There being no further business, the following motion was made: The Planning & Zoning Commission meeting be adjourned. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved. The meeting was adjourned at 9:27 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director