

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
JULY 10, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Hutchison, Cameron, Voigt, Cunningham and ex-officio member, First Selectman, Jayme Stevenson

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

CHANNEL 79

Chairman Conze opened the meeting at 8:00 P.M., and read the first agenda item:

GENERAL MEETING

Update regarding Allen O'Neill project. (NOT A HEARING—no testimony from the general public will be accepted).

First Selectman Jayme Stevenson sat in with the Commission as an ex-officio member to join in the discussion regarding this matter.

Arthur Anderson was present on behalf of the Darien Housing Authority and said that construction activity at the site regarding Phase 1 of 3 has already started. This includes the infrastructure of the utilities underground and much of the site work. He said that the first units will hopefully be ready for occupancy in spring of 2013. This will allow some of the existing residents to be relocated into the new units so that the old units, that they are currently living in, can be removed and replaced. He said that the decent weather has helped them proceed so far.

John McClutchy, President of JHM Financial Group, LLC, said that earth moving and relocation of materials will continue throughout all three phases. He said that his firm is presently in a partnership with the Housing Authority to build the project and then manage and administer the units that are constructed. In response to questions, he said that the buildings are being constructed with high quality materials to last a long time. In response to another question, he said the fence located along the easterly property line was adjusted somewhat to accommodate some of the neighbors concerns. The Darien Housing Authority does not want to change the fence any more due to potential liability concerns. Mr. McClutchy said that the new trees called for in the site plan should be planted in the early spring (March or April) of 2013 when the buildings are nearing completion.

Director of Planning Jeremy Ginsberg said that the egress walkways at the rear portions of some of the easterly buildings could be modified while still complying with Fire Marshal requirements for emergency egress. Some of the paving in that area could possibly be reduced to increase the amount of green space in the backyard. No changes will be made unless and until the Fire Marshal agrees. There was a question regarding the schedule of construction and when the old existing brick building will be removed. Mr. McClutchy responded that the brick building should be removed by the end of July or in early August at the earliest. Another concern that was discussed was possibly changing the traffic pattern regarding the use of Elm Street.

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Mr. Ginsberg said that the Zoning Regulations do not allow four bedroom units, yet some of the plans were originally approved by the Commission with four bedroom design. In order to proceed with construction, the plans were modified to reduce them to three bedroom units with an additional den or living space. The size of the buildings did not change.

Mr. Ginsberg said that a concern of some neighbors would be the effect on their privacy and the safety of the residents who would be using the upper floor balconies in the new buildings. Mr. McClutchy noted that no storage would be allowed outside of the buildings or on the balconies. Storage for each unit is provided within the basement area of the building. He said that no grills will be allowed on any balcony, and any violations by the tenants will be dealt with by the Darien Housing Authority.

The name of the project is being changed to "The Heights in Darien" instead of Allen-O'Neill. It was noted that Allen - O'Neill Drive is still being maintained as the street name, and the plaque referring to Eric Allen and William O'Neill, two Darien sailors who died on the USS Arizona in Pearl Harbor on December 7, 1941, is being relocated to be close to the community building. Within the community building, there will be a photo wall regarding the history of the site.

Mr. Conze said that he would like an update from the Housing Authority and the contractor in the Fall of 2012. First Selectman Jayme Stevenson then departed the meeting.

Chairman Conze then read the next agenda item:

Flood Damage Prevention Application #139-A, Barlow & Beth Peelle, 17 Crane Road. Proposing to construct additions and alterations to the existing residence and perform related site development activities within a regulated area. The subject property is located on the west side of Crane Road approximately 1,000 feet south and east of its intersection with Pear Tree Point Road, and is shown on Assessor's Map #60 as Lot #30, R-1 Zone.

Project Architect David LaPierre and Project Engineer Peter Finkbinder represented the property owner and explained that the construction project does involve some work within the Flood Hazard Zone and therefore requires Planning & Zoning Commission approval. Storm water runoff from the proposed new impervious surfaces is being managed by being directed into infiltrators so that it can percolate into the ground to the extent possible and then the overflow will go into the storm drainage system in the area. Site regrading is being proposed to make sure that surface water from the subject property will not travel north toward the neighbor. Instead it will be redirected in a westerly direction so that it flows into the drainage system. They explained that approximately half a truck load of fill is necessary to accomplish this regrading to protect the neighboring property owner.

There is currently a storm drainage pipe system that leads from the property, through another property to the west, on Pear Tree Point Road, and toward Long Island Sound. That pipe does not have a flood gate or flood flap and therefore high, high tides cause the drainage system to backup. In those extreme high tide conditions, virtually no water leaves the site until the tide recedes. The storm drainage system will be able to manage small storm events but will not change any flooding conditions during a major storm or an unusually high tide. The storm drainage system is more to address water quality issues rather than water quantity. Mr. LaPierre said that they have obtained approval signatures from all of the neighboring property owners except the neighbor directly to the north. Mr. Ginsberg said that the

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neighbor to the north has a low spot that apparently retains storm water. He said that the Peelles design will be keeping water on the Peelle site and not allowing any of their water to be directed toward the neighbors. Mr. Spain said that if this drainage system design does not work as intended, then the Peelles will need to take additional steps to make sure that their storm water runoff does not affect the neighbor. Mr. LaPierre said that the invert of the drainage pipe is at Elevation 5.5 and is therefore affected by unusually high water conditions in Long Island Sound. Mr. Finkbinder said that he had met with the neighbor to the north and offered a way for them to tie into the drainage pipe by constructing a new catch basin on or near the property line. He said that the neighbor has chosen not to connect to the new catch basin at this time. Mr. Ginsberg said that a letter of certification has been received verifying that the lowest floor elevation of the proposed addition is at least one foot above the expected flood level and that the foundation design will withstand flood forces and the proposed construction will not have any impact on flooding of neighboring properties.

The following motion was made: That the Planning & Zoning Commission has reviewed the application materials and concludes that the project complies with the Flood Damage Prevention Regulations and therefore approves the project subject to the usual conditions regarding work within the Flood Hazard Zone and with the verification that if the storm drainage system does not work as designed, then the Peelles will need to take additional steps to make sure that the neighboring property owners are not impacted by the construction project. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item:

Amendment of Special Permit Application #202-C and Business Site Plan #109, Bodega Taco Bar, 980 Boston Post Road, CBD Zone.

Request to modify previous approvals to: a) create additional indoor seating; b) establish a bar; and c) establish outdoor dining in front of and behind the existing building.

Mr. Ginsberg reviewed the July 5, 2012 letter from Attorney Robert Maslan. The proposed Bodega Taco Bar will occupy the space that has recently been Café D'Azur and formerly was Così Restaurant. They share the building with existing Upper Crust Bagel and the plan is to renovate the existing outside dining area to the rear of Upper Crust Bagel so that patrons from Bodega Taco Bar can use that area. An outside dining area on the front sidewalk along the Boston Post Road is also proposed. Mrs. Cameron said that it does not seem that the sidewalk is wide enough to accommodate tables and chairs and employee activity in that front sidewalk.

David Genovese, property owner, explained that they have obtained approval from the Architectural Review Board (ARB) for the new window wall that would be adjacent to the Boston Post Road. There will be an accordion style window that will project not more than two feet out from the building wall (over the walkway) when it is completely open. Mario Fontana, proposed operator of Bodega Taco Bar, said that the plan is to have the wait staff go out on to the sidewalk to provide service to the customers. Mr. Genovese said that six seats would be on the front sidewalk at three small tables. The six seats in front of the Bodega Taco Bar would be in addition to the six seats that have been approved in front of Upper Crust Bagel. In the evenings the three tables/six seats in front of Upper Crust Bagel would also be available for use by clients of Bodega Taco Bar. In response to questions, they said that the property line is located immediately adjacent to the front wall of the building. The tables and chairs would actually be on the sidewalk within the street right-of-way. Così did not have waiter or waitress

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service. Clients of Cosi could purchase food within the building and then use the tables and chairs outside the building as street furniture that was accessible to everyone.

Questions came up regarding the service of alcoholic beverages at the front sidewalk tables. Mr. Fontana said that he spoke with the State Liquor Control Commission and was told that no barrier or enclosure is required. Zoning Officer David Keating said that if a barrier is provided, it must be at least 3 feet tall so it is not a tripping hazard.

Mr. Voigt said that he had reviewed the old resolution that had allowed Cosi to have three outside tables and six outside chairs located immediately adjacent to the building. They were in lieu of bench-like street furniture. He said the sidewalk there is only about 12 feet wide and there is already a tree and other obstructions that limit the pedestrian area. He said that the proposed use of the front sidewalk for customer dining with service is very tight. Mr. Conze said that it seemed to him to be a worthwhile experiment, but the operations and use needs to be controlled by the restaurant operators to make sure that pedestrian use of the sidewalk is paramount.

There was a reference to the Scena Restaurant that has considerable outside seating and it is completely enclosed with a railing and fence-like barrier. It was also noted that all of the Scena outside dining and service area is on private property, and none is within the street right-of-way. In response to questions, Mr. Fontana said that they had hope to open in August, but now it will be at least September or October before they are able to open.

The following motion was made: That the Planning & Zoning Commission authorize the interior alterations and increase of inside seating, and, that the Commission authorize the use of the outside terrace behind the building and adjacent to the municipal parking lot in accordance with the submitted request, and, that the Commission authorize the installation of no more than three tables and six chairs for 2012 and 2013 subject to the limitations of the original approval for Cosi's use of small tables and chairs immediately adjacent to the front wall of the building. No use of the front sidewalk dining shall occur between December and March, and after the 2013 season, the operators must return to the Commission for reconsideration about whether to allow the outside dining to continue. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Mr. Genovese noted that the original approval for Cosi had been tables and chairs that were in lieu of street furniture and were usable by the general public. In this case, the tables and chairs in front of Bodega Taco Bar and Upper Crust Bagel will not be for the use of the general public. Commission members agreed, and noted that the approval is only temporary and that the primary use of the sidewalk is for pedestrian flow of the general public, not for business operation.

Chairman Conze read the next agenda item:

Amendment of Business Site Plan #275-A(2)/Special Permit, Phil's Grill, 340 Heights Road.

Request to modify previously approved plans for expansion of Phil's Grill, including expansion of bar area.

Stephen Jones, project architect, explained that the Planning & Zoning Commission had approved additions and alterations that would have made more indoor space to the side portion of the restaurant. The new operator, Jim Love, proposed changes that are different from what the Planning & Zoning

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Commission had previously approved. The door location will change to be on the Heights Road side of the building and additional enclosed space will be created under the existing roof on the Heights Road side of the building. Mr. Love explained that they will not be changing the outside stairs or the amount of outside dining. Instead the interior bar and interior dining space will be altered. Commission members reviewed the submitted plans. The following motion was made: That the Planning & Zoning Commission approve these revised construction plans subject to the applicant applying to the Architectural Review Board with respect to changes to the exterior of the building. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item:

Amendment of Coastal Site Plan Review #50-C, Flood Damage Prevention Application #39-C, Kent Eppley, 6 Contentment Island Road, R-1 Zone.

Request to modify previously approved plans.

Kent Eppley appeared before the Commission and explained his request to modify the previous approval with respect to possibly eliminating some retaining walls and reducing the overall size of the building. The Commission members reviewed the submitted plans. The following motion was made: That the Planning & Zoning Commission approve the requested modification as noted in the letter dated June 18, 2012 and the accompanying architectural drawings. The motion was made by Mrs. Cameron, seconded by Mr. Cunningham and unanimously approved.

Chairman Conze read the next agenda item:

Business Site Plan #138-A/Special Permit, Wm. Raveis Real Estate, 22 Old King's Highway So.

Request for extension of time to commence project.

Commission members reviewed the June 12, 2012 from Loren Meyer, project architect, requesting a 12 month extension. There is hope that the project will be implemented in the spring of 2013. The following motion was made: That the Planning & Zoning Commission approve the requested extension for the requested one year extension in order to commence the project as previously approved. The motion was made by Mr., Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item:

Special Permit Application #255/Site Plan #270/Land Filling & Regrading App., 333 West Ave.

Request for extension of time to commence remainder of project.

It was noted that the storm water drainage system has been installed and is working well and two of the eight houses are virtually complete. The applicant is requesting an extension of the approval because the original approval would expire on August 31, 2012. The following motion was made: That the Planning & Zoning Commission grant a one year extension so that the project Special Permit approval will remain valid until August 31, 2013. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item:

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Amendment of Coastal Site Plan Review #134, Flood Damage Prevention Application #135, Mitchell Truwit, 7 North Road, R-1 Zone.

Request to demolish an existing stone retaining wall, staircase and patio, and remove and dispose of a tree stump, rebuild the stone retaining wall, and staircase, reconstruct the flagstone patio.

Brian Murphy, project landscaper, explained that the existing stone wall and patio on the property are in disrepair and removal of a large tree trunk from that area will require that the wall and patio be completely rebuilt. The area in question is within 100 feet of mean high water and therefore requires Coastal Site Plan Review by the Planning & Zoning Commission before the site development occurs. The Commission members reviewed the July 5, 2012 and accompanying materials. The following motion was made: That the Planning & Zoning Commission approve the requested modifications at 7 North Road in accordance with the submitted application materials. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item:

Deliberations and possible decision on the following closed public hearing items:

Coastal Site Plan Review #270-A, Flood Damage Prevention Application #306-A, Land Filling & Regrading Application #270-A, 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. *DECISION DEADLINE: 8/9/2012.*

The following motion was made: That the Planning & Zoning Commission waive the processing of reading the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Cunningham and unanimously approved.

Commission members noted that this is virtually a new house although many portions of the existing foundation will be preserved and reused in accordance with the Zoning Board of Appeals variance. Several minor clarifications to the draft resolutions were made. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project in accordance with the conditions and stipulations as noted. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor, except Mr. Conze who abstained because he had not attended the Public Hearing regarding this matter. The motion was approved by a vote of 5-0-1. Mr. Spain noted that he had reviewed the tapes of the Public Hearing regarding this matter. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 10, 2012**

Application Number: Coastal Site Plan Review #270-A
Flood Damage Prevention Application #306-A

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Land Filling & Regrading Application #270-A

Street Address: 11 Peabody Lane
Assessor's Map #62 Lot #60

Name and Address of:
Property Owner: Paul & Amy Darrah
11 Peabody Lane
Darien, CT 06820

Name and Address of Applicant &:
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is on the east side of Peabody Lane approximately 1,000 feet northeast of its intersection with Hawthorne Road (Salem Straits).

Zone: R-1

Date of Public Hearing: June 5, 2012

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

Publication of Hearing Notices
Dates: May 25 & June 1, 2012 Newspaper: Darien News

Date of Action: July 10, 2012 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 20, 2012 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, 820, 850 and 1000 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 redevelopment plans, 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.

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- 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 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 proposed new residence with attached garage will be served by public water and sewer. Part of the plan will be to eliminate the on-site septic system and connect to the existing sanitary sewer on Peabody Lane. The subject property is 1.55+/- acres, and is directly adjacent to Scott's Cove.
2. The proposed new residence is in generally the same location as the existing residence, and is generally no closer to the tidal wetlands. Part of the subject application is to remove the pre-existing non-conforming guest house. A connection to the existing sanitary sewer will be made, abandoning the existing septic system which was installed many years ago. Water quality will also be addressed through the installation of the proposed rain gardens.
3. The Zoning Board of Appeals granted in part with stipulations/denied in part this project in ZBA Calendar #26-2012 on May 16, 2012. The redevelopment was granted with stipulations, however, the request for a variance for the HVAC units was denied. That decision is hereby incorporated by reference.
4. The submitted plans and application materials had been referred to the State of Connecticut DEEP by Planning & Zoning Department staff. State DEEP responded with an email dated January 19, 2012, indicating that they found that the proposed plans were not inconsistent with the Coastal Area Management Policies.
5. The existing house is located in the Flood Hazard Zone and the extensive renovations proposed by the Darrahs 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.
6. As part of this application, proposed rain gardens are proposed to address stormwater quality. The Commission notes the need for the applicant or property owner(s) to submit a Drainage Maintenance Plan for the rain gardens, and to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
7. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
8. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.

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9. 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.
10. The application 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.
12. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #270-A, Flood Damage Prevention Application #306-A, and Land Filling & Regrading Application #270-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, stormwater management, and other site development activity shall be in accordance with the following plans as submitted to the Commission:
 - Zoning Location & Topographic Survey depicting proposed conditions 11 Peabody Lane aka 66 Salem Straits prepared for Paul F. Darrah Amy J. Darrah, by William W. Seymour & Associates, last revised April 3, 2012.
 - Site Plan prepared for Darrah Residence #11 Peabody Lane, prepared by LBM Engineering, LLC, last revised 4/12/2012. (which shows the proposed rain gardens).
 - 11 Peabody Lane, Darien, CT architectural plans by Leo E. Dwyer, PE, LLC, dated 4-7-12, sheets A-0 through A-8.
- B. The Zoning and Building Permits for the foundation only for the proposed residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey illustrating the location and elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or new foundation are within the flood hazard zone. Only then can the Zoning and Building Permits be obtained for the house above the foundation level. One important aspect of the proposed project is to result in the house being outside of the Flood Hazard Area. The applicant is responsible for obtaining the Letter of Map Revision (LOMR) or similar approval from FEMA that may be appropriate. The applicant shall provide a copy of any such approval to the Commission for the file.
- C. During the filling, regrading, and site work, the applicant shall utilize the sediment and erosion controls illustrated on the Site Plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including tree protection measures, as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse

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impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. The positioning of the HVAC units must comply with the setback requirements. Supplemental plantings shall be installed as needed to minimize the visual impact of the proposed retaining walls and HVAC units.
- E. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- F. As part of this application a Drainage Maintenance Plan shall be submitted for the record. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 11 Peabody Lane 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 address water quality. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well, within 60 days of this approval and prior to the issuance of a Zoning or Building Permit.
- G. The applicant shall install the stormwater management system as shown on the submitted Site Plan (in Condition A, above). The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent tidal wetlands and other environmentally sensitive areas. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at such owner's expense and as quickly as possible.
- H. Once the project is complete, and prior to July 10, 2013, the applicant shall certify in writing and/or photographs, and with an 'as-built' survey map that all work has been properly completed in accordance with the approved plans. This shall include written certification by the project's professional engineer that the drainage facilities (rain gardens) have been installed according to the approved plans, and that all construction (including the installation of any HVAC units, pool equipment, and generator) complies with the Flood Damage Prevention Regulations.
- I. 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.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to: approval from the Darien Health Department to abandon the existing septic system; approval from Darien Sewer Services to tie into the existing sanitary sewer system; and a Demolition Permit from the Darien Building Department; and

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possible approval from FEMA regarding the extent of the Flood Hazard Area. As always, authorization from the State of CT DEEP is required prior to any work proposed waterward of the high tide line in tidal, coastal or navigable waters of the state or in tidal wetlands. No work or disturbance is proposed within the DEEP jurisdiction and adequate barriers must be installed and maintained to assure that no intrusion or disturbance occurs without obtaining the proper prior approvals.

- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 10, 2013).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Drainage Maintenance Plan needs to be prepared and submitted per Condition E, above, and a Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Special Permit Application #89-G/Site Plan, Darien Public Works Department, 126 Ledge Road.
Proposing to temporarily establish recycling of waste concrete, asphalt, rock and dirt over a 90 day period in the summer of 2012 at the existing Transfer Station at 126 Ledge Road.

Commission members discussed the draft resolution and noted that the project would only involve processing material that is already on the site. That processed material would then be removed. No new materials would be brought to the site for processing at this time. Commission members noted that there would be a 90 day window in which the work could take place in 2012 and work would not necessarily take place on all 90 days. Mr. Spain said that it would be appropriate to stick with the end date in December due to the lack of foliage. Several Commission members agreed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 10, 2012**

Application Number: Special Permit Application #89-G/Site Plan
Darien Public Works Department, 126 Ledge Road

Street Address: 126 Ledge Road
Assessor's Map #39 Lots #20 & #21

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Name and Address of Property Owner: Town of Darien
c/o Town Hall
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant
and Applicant's Representative: DJ Cavaliere
Cavaliere Industries, Inc.
226 Selleck St., Suite C
Stamford, CT 06902

Activity Being Applied For: Proposing to temporarily establish recycling of waste concrete, asphalt, rock and dirt over a 90 day period in the summer of 2012 at the existing Transfer Station at 126 Ledge Road.

Property Location: The subject property is located on the north side of Ledge Road, approximately 1500 feet west of its intersection with Boston Post Road.

Zone: Service Business (SB) Zone

Date of Public Hearing: May 22, 2012 continued to June 12, 2012

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

Publication of Hearing Notices

Dates: May 11 & 18, 2012

Newspaper: Darien News

Date of Action: July 10, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 20, 2012

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 660, 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 information, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application proposes to temporarily establish recycling of waste concrete, asphalt, rock and dirt over a 90 day period in the summer of 2012 at the existing Transfer Station at 126 Ledge Road. The proposal is to process existing on-site material on-site, and then remove a portion of it. Part of the original proposal, as outlined in the applicant's April 12, 2012 letter to Jeremy Ginsberg, allowed the applicant to bring in off-site materials to process. As noted in the May 29, 2012 e-mail from Robert Steeger to Graham Powell, "Cavaliere has decided against trucking in material from outside sites."

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Thus, the pending application only allows for on-site material to be processed. Some of that processed material will remain on-site, and some of it will be removed via truck by Cavaliere Industries.

2. At the public hearing on this matter, it was explained that the area to be used for such work would be overlooking the fire training tower in the back of the property, near the Metro North RR tracks. The material to be processed on-site has all been brought in as part of various Town projects through the years. Work will include the processing of concrete, asphalt, and other materials now being stored on-site at the Transfer Station.
3. Director of Public Works Robert Steeger explained that there are now 17,000 vehicles per month going in and out of the Transfer Station, as well as 1,800 commercial vehicles. It is expected that the proposed operation would have an average of five trucks come in and leave every day over the proposed 90 day period in 2012. That amounts to approximately 300 new truck trips monthly for three months.
4. At the June 12, 2012 public hearing, one property owner from Middlesex Commons had various questions regarding the proposed operation, including potential noise, possible impacts to wetlands, and hours of operation. In response to those questions, it was noted that the distance from the proposed operation to the closest Middlesex Commons property line is 440+/- feet, and that there are no wetlands within 100 feet of the proposed activity. Work hours will be a maximum of 8:00 a.m. through 2:45 p.m., Monday through Friday. No work will be done on weekends or holidays.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application, as amended herein, is in harmony with the orderly development of the district in which it is located.
7. 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.
8. The location and nature of the proposed use is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The elements of the Site Plan, submitted as part of the application, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
10. The design, location, and specific details of the proposed use and site development, as modified and approved herein, 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.
11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
12. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #89-G/Site Plan is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Activities and scheduling shall be in accordance with the following representations submitted to and reviewed by the Commission:
 - May 29, 2012 e-mail from Graham Powell to Robert Steeger, with Mr. Steeger's responses in green.
- B. This activity/use approval is also subject to the scope of work presented by the applicant in its April 12, 2012 letter to Jeremy Ginsberg. This one-page letter outlines the work to be done, and the hours and days of operation. The only change is that there will be no incoming material from other than the Darien Public Works Department. The only material to be processed will be that which is now on-site, and any that the Public Works Department brings in between now and the end of the 90-day approved work period.
- C. Dust control shall be used on an as-needed basis to minimize the amount of dust which could become airborne.
- D. The applicant or property owner shall notify the Planning and Zoning Department two days prior to work commencing and again once the project has been completed. The Commission is not requiring or limiting the applicant to a specific start date; however, all work shall be completed by December 1, 2012.
- 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 the permit as it deems appropriate.

All provisions and details of the application 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. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the start of work or this approval shall become null and void.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #273, Land Filling & Regrading Application #274, Jerrold & Sally Fine, 172 Long Neck Point Road. Proposing to construct a new single-family residence and pool; perform associated filling, excavating and regrading; install landscaping; and perform related site development activities within a regulated area. *DECISION DEADLINE: 8/30/2012.*

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JULY 10, 2012**

Application Number: Coastal Site Plan Review #273
Land Filling & Regrading Application #274

Street Address: 172 Long Neck Point Road
Assessor's Map #61 Lot #22

Name and Address of Applicant: Jerrold & Sally Fine
And Property Owner: 26 Giles Hill Road
Redding, CT 06875

Name and Address of Applicant's Representative: G. Kenneth Bernhard, Esq.
Cohen & Wolf, PC
320 Post Road West
Westport, CT 06880

Activity Being Applied For: Proposing to construct a new single-family residence and pool; perform associated filling, excavating and regrading; install landscaping; and perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Long Neck Point Road approximately 500 feet south of its southern intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: June 26, 2012

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

Publication of Hearing Notices

Dates: June 15 & 22, 2012

Newspaper: Darien News

Date of Action: July 10, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 20, 2012

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, 850 and 1000 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 development plans, and the statements of the applicant's

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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 request is to construct a new single-family residence and pool; perform associated filling, excavating and regrading; install landscaping; and perform related site development activities within a regulated area. The subject property is 3.5+/- acres and is served by public water and sewer. A survey submitted as part of this application shows the location of the former single-family residence on the property which was removed circa May 2012 as well as the associated guest house on the east side of the property which was also removed about the same time.
2. Stormwater runoff from the proposed new residence will be addressed through the installation of 32 cultec recharger 280HD drywell galleries to be installed to the west of the proposed residence. Because of the property's specific location adjacent to Long Island Sound, the Darien Public Works Department notes that stormwater quality takes precedence over the management of stormwater quantity.
3. The project complies with all yard setbacks, building height, and building coverage maximums in the Zoning Regulations. No members of the general public submitted comments for the record or commented at the public hearing. The State of CT DEEP sent an e-mail dated June 19, 2012 noting that they have "...reviewed the reviewed the application materials for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) [CGS Sections 22a-90 through 22a-112], inclusive and find no inconsistencies in the proposal."
4. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities (the proposed retention system to pre-treat stormwater runoff) and the need to maintain said facilities to minimize any potential downhill impacts.
5. 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.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
8. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street.

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9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. 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 #273 and Land Filling and Regrading Application #274 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and associated stormwater management installation shall be in accordance with the plans entitled:
 - Fine Residence 172 Long Neck Point Road, by Shope Reno Wharton, dated May 17, 2012, Sheet Number A-002, A-003, A-200 through A-230, A-300, A-301, GB-1, GB-2.
 - Fine Residence 172 Long Neck Point Road, by Stephen Stimson Associates, Landscape Architects, dated 26 April 2012, Sheet L1.0.
 - Residential Development Jerrold Fine Sally Fine 172 Long Neck Point Road, by Rocco V. D'Andrea, Inc. Sedimentation and Erosion Control Plan, last revised 5-17-12.
 - Residential Development Jerrold Fine Sally Fine 172 Long Neck Point Road, by Rocco V. D'Andrea, Inc. Development Plan, last revised 5-17-12.
 - Residential Development Jerrold Fine Sally Fine 172 Long Neck Point Road, by Rocco V. D'Andrea, Inc. Notes and Details, last revised 5-17-12.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans, as noted 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.
- C. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- D. As noted above, drywell galleries are proposed to be installed to the west of the proposed residence to address water quality. These will be installed about 130 feet from Long Island Sound. Due to this property's proximity to Long Island Sound, the Commission hereby waives the provisions of Section 888 of the Darien Zoning Regulations (Stormwater Management) with respect to detention of stormwater.
- E. By September 10, 2012 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the issuance of a Zoning or Building Permit for the proposed residence, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the

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Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 172 Long Neck Point Road to maintain the on-site drainage facilities (the rain garden), and will alert future property owners of the rain garden 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 60 days of this approval.

- F. Prior to the request for a Certificate of Occupancy (CO), a final “as-built” survey is hereby required to certify that all of the regrading, stormwater management installation, landscape planting (as shown on Sheet L1.0) and other site improvements are all in compliance with the approved plans.
- G. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- H. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- I. 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. This includes, but is not limited to, a Zoning and Building Permit for construction of the new residence, as well as a permit from the Darien Public Works Department for the sanitary sewer connection.
- J. 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.
- K. This permit shall be subject to the provisions of Sections 815, 858, and 1009 of the Darien Zoning Regulations, including but not limited to implementation and completion of the approved plans for site work, regrading, rain garden installation and stabilization/re-vegetation of all disturbed areas within one year of this action (by July 10, 2013). This may be extended as per Sections 815, 858, and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

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Chairman Conze read the following agenda item:

Coastal Site Plan Review #274, Land Filling & Regrading Application #275, Patric & Xenia Mesot, 11 Queens Lane. Proposing to: construct a new single-family residence with associated septic system; perform associated filling, excavating and regrading; and perform related site development activities within a regulated area. *DECISION DEADLINE: 8/30/2012.*

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JULY 10, 2012**

Application Number: Coastal Site Plan Review #274
Land Filling & Regrading Application #275

Street Address: 11 Queens Lane
Assessor's Map #63 Lot #99

Name and Address of Applicants &
Property Owners: Patric & Xenia Mesot
25 Forest St., Apt. 9L
Stamford, CT 06901

Name and Address of
Applicant's Representative: Richard A. Regan
Rocco V. D'Andrea, Inc.
6 Neil Lane
Riverside, CT 06878

Activity Being Applied For: Proposing to: construct a new single-family residence with associated septic system; perform associated filling, excavating and regrading; and perform related site development activities within a regulated area.

Property Location: The property is situated on the southwest side of the Queens Lane cul de sac, approximately 700 feet east of the intersection of Old Kings Highway South and Queens Lane.

Zone: R-1

Date of Public Hearing: June 26, 2012

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

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Publication of Hearing Notices

Dates: June 15 & 22, 2012

Newspaper: Darien News

Date of Action: July 10, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 20, 2012

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, 850 and 1000 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 development plans, 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:

11. The request is to construct a new single-family residence with associated septic system; perform associated filling, excavating and regrading; and perform related site development activities within a regulated area. The subject property is 1.55+/- acres. A survey submitted as part of this application shows the location of the former single-family residence on the property which was removed circa November 2011 as well as the associated pool and wood deck on the east side of the property which was also removed about the same time.
12. The Environmental Protection Commission (EPC) approved this project as part of EPC #14-2012 on June 6, 2012. The Zoning Board of Appeals granted a variance for this project—Calendar #24-2012 on May 16, 2012. Both of these approvals are hereby incorporated by reference.
13. An e-mail dated June 18, 2012 was received by the State of CT DEEP regarding this application. It read in part, "... We have reviewed the application materials for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) [CGS Sections 22a-90 through 22a-112, inclusive and find no inconsistencies in the proposal."
14. Stormwater runoff from the proposed new residence will be properly managed to address water quality. This will be achieved by installation of a "first flush" system, including a bypass structure and level spreader. Since the property is directly adjacent to the Goodwives River, stormwater shall not be detained on site, but water quality will be addressed.

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15. The Commission notes the need for the property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities (the proposed water quality system consisting of nine cultec 330XL units) and the need to maintain said facilities.
16. 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.
17. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
18. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
19. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street.
20. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
21. 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 #274 and Land Filling and Regrading Application #275 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- L. Construction, filling and regrading, and associated stormwater management installation shall be in accordance with the plans entitled:
 - Proposed Dwelling & Septic System Patric Mesot Xenia Mesot, by Rocco V. D'Andrea, Inc., last revised 5-16-12; Sheet 1 of 3 Development Plan; Sheet 2 of 3 Sections and Details; Sheet 3 of 3 Notes and Details.
- M. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted 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 restablilized. 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.
- N. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.

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- O. As discussed at the Public Hearing, drainage pre-treatment is proposed for the area northeast of the proposed residence. This will address water quality. Due to this property's location adjacent to the Goodwives River, the Commission hereby waives the provisions of Section 888 of the Darien Zoning Regulations (Stormwater Management) with respect to detention of stormwater.
- P. By September 10, 2012 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the proposed new house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 11 Queens Lane to maintain the proposed on-site drainage facilities (the rain garden), and will alert future property owners of the existence of the cultec units and the need to maintain said facilities. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- Q. Prior to the request for a Certificate of Occupancy (CO), a final "as-built" survey is hereby required to certify that all of the regrading, drainage installation, replanting and other site improvements are all in compliance with the approved plans.
- R. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- S. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- T. 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. This includes, but is not limited to, a Zoning and Building Permit for construction of the proposed new replacement residence; a Street Opening Permit from the proposed driveway access; and approval by the Darien Health Department for the proposed new septic system.
- U. 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.
- V. This permit shall be subject to the provisions of Sections 815, 858, and 1009 of the Darien Zoning Regulations, including but not limited to implementation and completion of the

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approved plans within one year of this action (by July 10, 2013). This may be extended as per Sections 815, 858, and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning and Building Permit, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Special Permit Application #272, Coastal Site Plan Review #275, Scott & Kristin Fine, 163 Pear Tree Point Road. Proposing to construct a tennis court; install associated stormwater management; and perform related site development activities. *DECISION DEADLINE: 8/30/2012.*

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JULY 10, 2012**

Application Number: Special Permit Application #272
Coastal Site Plan Review #275

Street Address: 163 Pear Tree Point Road
Assessors Map #61 Lot #25

Name and Address of Property Owners: Scott & Kristin Fine
163 Pear Tree Point Road
Darien, CT 06820

Name and Address of Applicant &:
Applicant's Representative: Joshua Klinger
Klinger Management & Construction
4 Winside Lane
Coram, NY 11727

Activity Being Applied For: Proposing to construct a tennis court; install associated stormwater management; and perform related site development activities.

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Property Location: The subject property is located on the south side of Pear Tree Point Road approximately 500 feet west of its southern intersection with Long Neck Point Road.

Zone: R-1

Date of Public Hearing: June 26, 2012

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

Publication of Hearing Notices

Dates: June 15 & 22, 2012

Newspaper: Darien News

Date of Action: July 10, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: July 20, 2012

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 and 1000 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 property owners/applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application is to construct a tennis court; install associated stormwater management; and perform related site development activities at 163 Pear Tree Point Road. The subject property is 4.2+/- acres. The proposed tennis court is an accessory use requiring a Special Permit under Section 405b of the Darien Zoning Regulations. It was noted that the court area would be about 60' x 120' in size.
2. As part of the subject application materials, the applicant submitted a Stormwater Management Report from Land-Tech Consultants. The submitted plans show a proposed perforated pipe, leading to trap rock subsurface drainage.
3. The Commission notes with respect to the drainage system around the court, the need for the property owners to file a Notice of Drainage Maintenance Plan outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This

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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.

4. The tennis court, as designed, complies with all yard setbacks and building coverage maximums in the Zoning Regulations. No members of the general public submitted comments for the record or commented at the public hearing. The State of CT DEEP sent an e-mail dated May 31, 2012 noting that they have "...reviewed the reviewed the application materials for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) [CGS Sections 22a-90 through 22a-112], inclusive and find no inconsistencies in the proposal."
5. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
7. The location and nature of the proposed use are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
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.
9. With the specific conditions outlined herein, 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 Special Permit Application #272 and Coastal Site Plan Review #275 are hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Construction of the proposed tennis court and related drainage work shall be in accordance with the following plan and materials submitted to the Commission.
 - Zoning Location & Topographic Survey of a portion of 163 Pear Tree Point Road prepared for Scott Fine Kristin Fine, by William W. Seymour & Associates, dated May 9, 2012.
 - Fine Residence Tennis Court Proposed Plan, by Perry Guillot Inc., Landscape Architecture, dated May 15, 2012.
- B. The proposed court construction does not involve the installation of any lights and no lighting is approved.
- C. During construction, the applicant shall utilize measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The

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Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. The plan submitted with the application includes the installation of a drainage system to manage the additional runoff to be created by the impervious surface. This drainage system must be installed prior to the completion of the project and/or use of the tennis court.
- E. By September 10, 2012 (within the next 60 days) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 163 Pear Tree Point 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 by the owner as well, within the next 60 days of this approval and prior to the issuance of Zoning and Building Permits for the tennis court.
- F. The applicant shall install the drainage system as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. A final “as-built” survey is hereby required to certify that the drainage and tennis court construction are in compliance with the approved plans. A Professional Engineer shall certify in writing prior to the issuance of a Certificate of Zoning Compliance and/or use of the tennis court, that the drainage work has been properly completed in accordance with the approved plans.
- H. In evaluating this application, the Planning & 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.
- I. 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. Zoning and Building Permits are required prior to the construction of the tennis court.
- J. 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 one (1) year of this action by (July 10, 2013). This may be extended as per Section 1009.

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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. Within sixty days of this action and prior to the issuance of a Zoning or Building Permit, a Special Permit form and Notice of Drainage Maintenance Plan both must be filed in the Darien Land Records or this approval shall become null and void.

Chairman Conze read the following agenda item:

Discussion and deliberation ONLY on the following items:

Proposed Amendment to the Darien Zoning Regulations (COZR #2-2012) put forth by the Darien Junior Football League (DJFL). Proposing to modify subsection 405b(3) of the Darien Zoning Regulations to allow temporary lighting of outdoor recreational facilities to be up to thirty (30) feet high. *PUBLIC HEARING CLOSED: 6/26/2012. DECISION DEADLINE: 8/30/2012.*

Special Permit Application #188-D(1)/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL from fall 2012-fall 2016. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone. *PUBLIC HEARING CLOSED: 6/26/2012. DECISION DEADLINE: 8/30/2012.*

Special Permit Application #188-B(1)/Site Plan, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams from Fall 2012-Fall 2016. *PUBLIC HEARING CLOSED: 6/26/2012. DECISION DEADLINE: 8/30/2012.*

Mr. Spain said that the Zoning Regulations do limit what people are allowed to do on their own property. The Regulations are adopted by the Commission with many factors in mind. These include safety, drainage, traffic and many other issues. He said that safety is not the only reason or the prime reason to regulate something that could impact other properties. He said that the safety of the players does not necessarily trump all of the other factors that the Planning & Zoning Commission must consider.

Mr. Hutchison said that there are technical questions about whether the 30 foot tall lights would impact the neighbors positively or negatively. It could improve the situation for the neighbors if the lights were angled downward. It seems that 20 foot light stantions work on paddle tennis courts but the play area is much smaller than a football field. He said that, in any case the applicant needs to make the best efforts to mitigate the impacts that might affect nearby properties. He said that if lights were more effectively shielded, they would be more like spot lights shining in specific areas, that might result in the need for more fixutres. If each fixutre is properly controlled, then it might be more effective.

Mr. Spain said that it might be appropriate to grant a five year permit for the 20 foot tall light poles and allow the applicant to do more testing for how the 30 foot light poles could work. Mr. Cunningham said that it might be appropriate to get the test dates and times publicized so that Commissiom members and the public and the neighbors can all know what is happening and when.

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Mr. Spain said that a more detailed description of the equipment would need to be in place to accomplish the testing at 30 feet and hopefully achieve less glare and impact on the neighbors using the improved 30 foot light system. Mr. Hutchison said that it is simply a matters of angles and geometry and many adjustments would need to be made in the field. Mr. Voigt said that meter readings of light glare were virtually the same at the different heights of the light poles. Mr. Hutchison noted that the DJFL has been much better at tweaking and adjusting the lights due to the experience they have achieved. Mr. Spain noted that the trees that were planted are getting taller but they might not be tall enough to block the light spillage from 30 foot tall poles. Mr. Conze said that he did not think that there was much difference of the impact upon the neighbors between the 20 foot tall lights and 30 foot tall lights. He noted that allowing the lights in the first place has been a balancing of the various opinions and interests.

Commission asked the staff to draft a resolution for consideration at a future meeting. Mr. Conze said that it might be possible to have the applicant seek a variance to accomplish the 30 foot lights rather than to amend the Zoning Regulations.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved. The meeting was adjourned at 10:20 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director

07.10.2012min