

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

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
CHANNEL 79

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

PUBLIC HEARING

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

Mr. Ginsberg confirmed that the application had been withdrawn and therefore the Public Hearing was cancelled.

Chairman Conze then opened the General Meeting and read the first general meeting agenda item:

GENERAL MEETING

Proposed amendment to Coastal Site Plan Review #269, Flood Damage Prevention Application #305, Land Filling & Regrading Application #269, Francis & Catherine Gallagher, 32 Pasture Lane. Proposing construction of a storage building/shed to the northeast of the house now under construction, bring additional fill around the east and south side of the house, reconfigure the stairway and related walls for the outside basement door, and raise the elevation of the pool and related deck, and to install remedial landscaping, all within regulated areas.

The Gallaghers have requested several amendments to the previously approved plans. Mrs. Cameron asked if the Commission should discuss whether a Public Hearing is needed before the merits of the matter are discussed. Mr. Ginsberg said that there are three main components of the request: the first is to modify the amount of fill around the house and the elevation of the pool and a wall adjacent to stairs into the basement, all based on the fact that the draft FEMA Flood Insurance Rate Map shows that the expected flood level in the area would be higher than the current regulations. The second proposed modification involves landscaping in the south and southwest portions of the property. The third modification involves construction of a boathouse and storage shed to the north of the main house. Mr. Hutchison said that the proposed storage building is completely different than the previous applications

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and seems, to him, would require a Public Hearing before any action is taken. Mr. Spain said that even the change in grade might need a Public Hearing. Mrs. Cameron said that when she visited the site on Saturday (July 21, 2012), she noticed that the sediment caught by the silt fence needs to be removed in order for the fence to continue to function properly.

Zoning Enforcement Officer David Keating mentioned that the house is nearly complete, and the best time to do the regrading around the house is now. The current Flood Map shows that the expected Flood elevation is 12. The first floor of the house has been constructed at Elevation 19 so that it is well above the expected flood level. The approved plan calls for the regrading around the house to be at least elevation 13.5, so that no portion of the house would be within the Flood Hazard Zone. The draft flood map, which has been sent to the Town by FEMA, shows that the new expected flood level would be 14. Even though the draft map is not yet in effect, and the house and regrading could be completed in compliance with the current flood map and the current approval granted by the Commission, the Gallaghers propose to raise the ground level around the house from 13.5 up to at least 14.5, and in some cases 15.5. In that way, even if the draft Flood Map is adopted, the entire house will still be outside of the Flood Hazard Zone. To accommodate these proposed new grade levels on the south and southeast portions of the house, a retaining wall will need to be constructed in the vicinity of the pool and the steps down into the basement. In addition to raising the grade around the house, the level of the swimming pool would be raised so that it too would not be damaged by flood conditions.

Mr. Conze said that the applicant has made commitments to build the house in accordance with the current approval so that it would not be in the flood zone but now there is this unforeseen revision to the flood map as proposed by FEMA. To accommodate the change in the flood map, the applicant is now willing to regrade the property, particularly the amount of fill adjacent to the house so that the house will still be outside of the Flood Hazard Zone as defined by the FEMA map. Mr. Spain asked if the increase in the amount of fill around the house would impact the neighboring property owners. The general consensus was that it would not impact the neighbors, and therefore it would be appropriate to approve the fill around the house at this time so that construction can proceed.

Frank Gallagher explained that the landscaping proposed on the south and southeast portions of the property is in response to an amendment that the Planning & Zoning Commission had approved which involved the removal of two large oak trees to the south of the house. Three eastern cedar trees will be planted to replace the two large trees. When the oak trees were removed, the stumps were also removed and that work exposed the fact that the previous owner had dumped a considerable amount of debris to the south of the house. Originally this area was not intended to be disturbed but the removal of the stumps and the removal of the debris have resulted in a substantially larger disturbed area than originally planned. Mr. Gallagher said that he has worked with staff to develop a restoration plan for the area to the south of the house, which would not create any lawn there (which Mr. Gallagher had originally hoped to have) but instead restores the area using more natural plants. The submitted landscaping plan shows the edge of the proposed lawn and the edge of restoration area. It also specifies the types of plants to be installed.

In response to questions, Mr. Gallagher said that the pool equipment had originally been designed to be near the pool and behind the garage. Upon discussions with his pool contractor, the pool equipment location has been revised so that the pool equipment would be located to the north of the house and would be adjacent to the air conditioning units and generator, which had previously been approved by the Commission.

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The Commission members discussed the fact that the landscaping to the south and southwest of the house was not related to the proposed shed, which would be to the north of the house. Mrs. Cameron expressed a concern about the installation of the mechanical equipment (AC units, generator and pool equipment) in an area close to the neighbor's house. The AC units and generator were approved by staff.

After further discussion, all the Commission members agreed to amend the existing permit to allow the additional filling and regrading to accommodate the draft Flood Insurance Rate Map (FIRM), expected flood elevation of 14 feet, and to allow the amendment of the swimming pool elevation and the installation of a wall adjacent to the basement stairs, all resulting from the draft Flood Map. The Commission members also agreed to approve the landscaping plan with respect to the area to the south and southwest of the house. The Commission members agreed that the boat house or storage building is not approved at this time, and that a Public Hearing will need to be conducted before any action is taken on that request. Mr. Conze asked Mr. Gallagher to provide a detailed landscaping plan for the area of the proposed storage building and mechanical equipment.

Chairman Conze then read the following agenda item:

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). Request to correct Adopted Resolution of July 10, 2012.

Attorney Wilder Gleason explained that Condition B within the resolution recently adopted by the Commission contains several minor inaccuracies and he requested that those be corrected. Mr. Ginsberg said that one possibility was that the as-built survey of the foundation should be submitted as opposed to must be submitted. The Commission members agreed that the as built survey must be submitted once the foundations are installed. Otherwise, the Commission members agreed to the modifications that Mr. Gleason had requested.

Chairman Conze then read the following agenda item:

Business Site Plan #258, Day Street Development, LLC, 1015 Boston Post Road.
Request to modify previously approved phasing plan.

Mr. Hutchison did not participate in this matter and left the room so that he would avoid any perception of a conflict of interest.

Attorney Wilder Gleason explained that four years ago, the project had been approved by the Planning & Zoning Commission. The project has not yet been implemented. It involves demolition of two existing buildings; one on Grove Street and one on the corner of Day Street and the Boston Post Road. They will be replaced with two new buildings that will have retail stores on the first floor and each building will have three apartments on the second floor. There will be a total of 12 on-site parking spaces. The original plan was to build the Grove Street building first and then to build the Boston Post Road building. The Commission stipulated that all 12 parking spaces must be completed and available before either building is occupied. The request now is to amend that approval so that the applicant would be able to build the structure adjacent to the Boston Post Road first and build 9 of the 12 on-site

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parking spaces so that the Boston Post Road building can be occupied. Three additional on-site parking spaces will be used for the staging area for the construction of the Grove Street building. When the Grove Street building is ready to be occupied, all 12 parking spaces on the site will become available for use.

Albert Orlando said that the market is improving and the revised construction makes sense from the sequencing point of view. He said he hopes to start work on the project in 2012. He confirmed that the three parking spaces would be the staging area for construction of the second building. This leaves nine parking spaces available for use by the tenants and customers in the Boston Post Road building. Mr. Ginsberg said that Stipulation N of the original approval requires that all 12 parking spaces be constructed and ready for use before either building is open or used. Mr. Gleason said that the change in sequence and the amendment of Stipulation N would allow the first building to be open, even before the second building is completed.

There was a discussion about the designation of parking spaces. Commission members feared that there would not be enough parking spaces for the six apartment residents and for the employees and customers of the businesses. It was noted that Section 905 in the Regulations does not allow for the specific designation of parking spaces for the residential or retail tenants. Mr. Conze said that the Commission had reduced the number of required on-site parking spaces to allow more on street development in the downtown for this and other projects. He said this encourages people to park once and walk from one business to another. This has resulted in a healthy, more active downtown area.

In response to questions, Mr. Ginsberg said that the current extension granted by the Commission in 2011, extends to December 2012. Mr. Gleason said that the Statutes have been modified with respect to Site Plan approvals granted by the Commission. After further discussion, the following motion was made: That the Planning & Zoning Commission grant the requested modification to allow the Boston Post Road building to be constructed and occupied, using 9 of the required 12 on-site parking spaces. Prior to the occupancy of the second building, the entire parking area must be completed and useable. The motion was made by Mr. Cunningham and seconded by Mr. Spain. Voting in favor were Mr. Conze, Mr. Cunningham, Mr. Spain, Mrs. Cameron and Mr. Voigt. No one voted in opposition. Mr. Hutchison was not present at the meeting during the vote. The motion passed by a vote of 5 to 0.

At about 8:45 p.m., Chairman Conze then read the following agenda item:

Deliberations and possible decisions on the following closed public hearing 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.*

Mr. Hutchison returned to the meeting to participate in this and the subsequent matters.

Mr. Ginsberg explained that draft resolutions had been distributed to Commission members for review and comment. He said that the original proposal to amend the Regulations has been expanded to reflect the previous discussion by the Commission to allow the 30 foot lights only on Town properties and only on a temporary basis and only when specific criteria are satisfied to assure that the neighboring property owners will be protected. He said that one issue was whether the word “temporary” should be

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defined within the Regulation or if it would be on a case to case basis for each Special Permit use. Mr. Conze noted that the Regulations should be generic but that the Special Permits are more specific with respect to 'temporary'. Mr. Hutchison noted that temporary can be defined by the number of hours of use during the day, the number of days of use during the month or year or how often the lights are actually used. Mr. Conze noted that the Special Regulations for 30 foot light poles are only for temporary and portable light fixtures.

Mr. Voigt said that the Commission needs to clarify where the intrusion on the neighbors is caused by direct view of the light filament or by reflected glare or by some other standard. He also noted that the 30 foot lights may allow the temporary fixtures to be angled more directly down to better direct the light toward the playing field as opposed to the neighbors. He said that the temporary lights should have a more lenient standard of approval than the permanent fixtures. Mr. Conze said that the existing temporary light usage has been allowed as a compromise by the various parties involved. He said that at 30 feet, the lights can be angled down better and that it is up to the applicant to use their best efforts to avoid glare or impact to the neighbors. There are no real technical standards to measure whether the effects upon the neighbors are acceptable. That judgment rests with the Planning & Zoning Commission. Mr. Spain said that it is very important that the source of the light is not seen by the neighboring property owners.

Mr. Voigt said that allowing 30 foot lights is intended to reduce the potential impact to the neighbors. Even though there may be some technical violation, it would be acceptable because it is only a temporary situation and is a compromise situation. He said that maybe 30 foot tall lights won't really solve the problem for the neighbors and might not work effectively enough for DJFL or the High School. Objectives of allowing temporary lights at 30 feet are that they perform better for the teams and also impact the neighbors less than the 20 foot lights have done. Mr. Conze said that you have Regulations that are restrictive in what they allow. Moreover, they will allow the 30 foot lights only by Special Permit. That Special Permit is more specific than the general Regulation and allows the Commission to make findings as to what is reasonable and acceptable. He said that it should not be a violation of the new Regulations to have temporary lights be visible to the neighboring property owners; but that could be allowed due to the limitations of the time, extent, number of days and other factors. If the Commission finds that it will not really impact the neighbors, it would be acceptable.

Mr. Spain said that one of the issues is whether the applicant needs to use their best efforts or use best available techniques. He noted that as technology progresses in the field, there will be improvements that could be achieved in later years that are not achievable now. Newer applications may accordingly be subject to higher standards than the current applications. Numerous specific language options were discussed and eventually agreed upon.

The following motion was made: That the Planning & Zoning Commission adopt the following resolution to adopt an amendment to Section 405b(4) as noted in the Resolution. The effective date of the Regulations will be August 5, 2012. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 24, 2012**

Application: Proposed Amendment to the Darien Zoning Regulations (COZR #2-2012)
put forth by the Darien Junior Football League (DJFL)

Name of Applicant: Darien Junior Football League (DJFL)

Name and Address of Applicant &: John Sini, Jr.
Applicant's Representative: 36 Birch Road
Darien, CT 06820

Activity Being Applied For: Proposing to modify subsection 405b of the Darien Zoning Regulations to allow temporary lighting of outdoor recreational facilities to be up to thirty (30) feet high.

Dates of Public Hearing: May 22, 2012 continued to June 26, 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 24, 2012

Action: ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
AUGUST 5, 2012 AT TWELVE NOON.

Scheduled Date of Publication of Action:
August 3, 2012

Newspaper: Darien News

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

1. This application put forth by the Darien Junior Football League seeks to modify a subsection of the Darien Zoning Regulations established in 1980. That subsection of the regulations allows outdoor recreational uses and tennis courts within certain residential zones as an Accessory Use Requiring a Special Permit. Lighting or illumination of such recreational facilities or tennis courts is permitted up to a maximum of 20 feet. The application seeks to increase that maximum to 30 feet for temporary lighting.
2. Appendix A8 of the 2006 Town Plan of Conservation & Development (the "Town Plan") reads in part as follows:
Existing Fields and Courts
Because of Darien's extremely high land costs, it is more costly than ever to obtain property to create or expand parks. Thus, the community should make the most efficient use of the space it has. This would include the following:

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- *Installation of artificial turf on select fields, which can allow for increased use, especially during rainy or wet weather.*
- *Irrigation, similarly.*
- *Lighting in certain key locations that would allow for use during dusk and into the evening hours.*
- *Expansion of existing fields, to allow for increased flexibility of use. This may require relocating and/or modifying existing facilities to accommodate higher-demand activities.*
- *Continue proper maintenance of the existing facilities.*

However, it is imperative that in each case, the specific site details and potential impacts of these changes be analyzed. By implementing these types of improvements, the Town may be able to meet increasing community demands, while minimizing the need to purchase additional property.

3. The Commission notes that in recent years, they have granted applications for temporary lights up to 20 feet high at two locations—Darien High School and Holahan Field behind Town Hall. The testimony received at those various public hearings and the first-hand knowledge of those lights has given the Commission an understanding of the temporary lighting which could be implemented as part of this zoning regulation amendment. Additional testimony about lighting was provided at the two public hearings on this subject application.
4. If the proposed amendment is adopted, temporary lighting will still require a Special Permit, thereby giving the Commission the opportunity to review applications on a case-by-case basis relative to the Special Permit standards within Section 1000 of the Zoning Regulations. Such a Special Permit application will require that a public hearing be held by the Commission.
5. After some consideration, the Commission has modified the applicant's proposal to only allow such lighting on **public** properties. This will limit the scope of the regulation change from that put forth by the applicant. The applicant's proposal did not distinguish between private and public properties, and therefore would have applied to many more properties within Darien. Given the scope of the above-quoted excerpt from the Town Plan, with its particular emphasis upon the growing use of Town fields and other recreational facilities, this special provision for portable temporary lights is appropriately limited to such Town-owned facilities.
6. To approve a zoning regulation amendment, the Commission must find that it is consistent with the Town Plan of Conservation & Development. The Commission hereby finds that the proposed zoning regulation amendment as modified herein is consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS WITH MODIFICATIONS the *Proposed Amendments to the Darien Zoning Regulations* WITH AN EFFECTIVE DATE OF SUNDAY, AUGUST 5, 2012 AT TWELVE NOON, as noted herein:

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NEW WORDING IN BOLD, DELETIONS IN STRIKEOUT:

Changes to subsection 405:

- b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
- (1) The source of such lights shall be concealed from surrounding residential properties;
 - (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;
 - (3) No **permanent** lighting facilities shall be mounted at a height greater than 20 feet above grade.
 - (4) **Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:**
 - a) **Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;**
 - b) **Located on public (i.e. Town-owned) property; and**
 - c) **Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.**

Chairman Conze then read the following agenda item:

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.
PUBLIC HEARING CLOSED: 6/26/2012. DECISION DEADLINE: 8/30/2012.

Mr. Ginsberg said that draft resolutions had been distributed for the Commission's review prior to the meeting. The following motion was made: That the Planning & Zoning Commission waive the process of reading the entire draft resolution aloud. The motion was by Mr. Cunningham, seconded by Mr. Voigt and unanimously approved.

Numerous modifications and clarifications were discussed and agreed upon. Mrs. Cameron noted that in October, the sun sets at 6 to 6:30 P.M. but as soon as Day Light Savings Time ends, the sunset in November is much earlier. The lights will only be on until 7 P.M. for use of practice purposes only. The Commission members discussed the fact that the adjustment and re-angling of the light fixtures could take place after the practice is over (between 7 and 7:30 P.M.) so that the DJFL and High School and neighbors and Commission members would all have an opportunity to see what impacts the new 30 foot tall light fixtures could have on reducing glare or light spillage towards the neighbors. Eventually the Commission decided that it would be appropriate for a one year permit at this time and a submission of a detailed report in January 2013 regarding the experience with the 30 foot tall light poles. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the Special Permit for one year temporary and portable light fixtures in accordance with the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 24, 2012**

Application Number: Special Permit Application #188-D(1)/Site Plan
Darien Junior Football League (DJFL)
Darien High School, 80 High School Lane

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of: Town of Darien
Property Owner: 2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative Darien Junior Football League (DJFL)
c/o John Sini
36 Birch Road
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road.

Zone: R-2

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 24, 2012

Action: GRANTED WITH STIPULATIONS
AND MODIFICATIONS
EFFECTIVE AUGUST 12, 2012

Scheduled Date of Publication of Action:
August 3, 2012

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

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- the proposed use and activities must comply with all provisions of Sections 400, 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 application materials, 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 application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL from fall 2012-fall 2016 for a maximum of 30 hours per year. The Commission notes that similar applications were submitted by DJFL over the past few years, and approved by the Planning and Zoning Commission. At the June 26, 2012 public hearing, John Sini, on behalf of the DJFL, noted that this application is different than the prior applications for portable, temporary lights in that: 1) they are requesting a five-year approval; b) they are changing the proposed dates and times of use; and 3) they have requested that the portable, temporary lights be placed to 30 feet or the maximum allowed under the Zoning Regulations.
2. The Commission notes that in recent years, related applications were granted for 20 foot high portable temporary lights at the Darien High School Stadium Field. The DJFL also received approval for temporary portable lights for Holahan field in recent years.
3. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up through middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. Prior to 2008, it has functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission and the Board of Education without the installation or use of artificial lights.
4. The application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal use by Darien Junior Football League (DJFL) for team practices on a maximum of 30 hours per year in the fall from 2012-2016. DJFL received specific authorization from the Darien Board of Education to proceed with this application for this specific field. The purpose of the temporary portable lights is to have football practices on the high school Stadium Field during the early evening. The proposed temporary lights would allow lighted practices after sunset on some weeknights in the later part of autumn.
5. The Commission notes that there is a related application for temporary lights for exclusive use by the Darien Board of Education at this property (Special Permit Application #188-B(1)/Site Plan). Both the subject application and that application were heard simultaneously on June 26,

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2012. That Board of Education application has been decided separately. Also, an application was put forth by DJFL to modify the Darien Zoning Regulations subsection 405(b) to allow temporary lights to be up to thirty feet high (Change of Zoning Regulations #2-2012), and also has been decided separately.

6. The purpose of the temporary portable lights is to have practices on the Stadium Field for DJFL practices. As noted by the applicant, the DJFL will determine which of their teams are able to practice on this field during the approved weekday times herein.
7. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring Special Permit. At the time this application was submitted, that subsection read as follows:
 - b. *Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*
 - (1) *The source of such lights shall be concealed from surrounding residential properties;*
 - (2) *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 - (3) *No lighting facilities shall be mounted at a height greater than 20 feet above grade.*

As noted in finding #2, above, an application was put forth by DJFL to modify the zoning regulations. That has been decided as part of a separate application, and that zoning regulation amendment takes effect on August 5, 2012. The new regulation (with the newly adopted wording in bold) reads as follows:

 - b. *Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*
 - (1) *The source of such lights shall be concealed from surrounding residential properties;*
 - (2) *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 - (3) *No **permanent** lighting facilities shall be mounted at a height greater than 20 feet above grade.*
 - (4) ***Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:***
 - c) ***Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;***
 - d) ***Located on public (i.e. Town-owned) property; and***
 - e) ***Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.***
8. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-family houses; and with the Stadium Field, in particular, located directly upon a portion of that neighborhood. The Commission's application of its own Regulations to this request for a Special Permit requires that these location and proximity factors be considered fully in applying each element of those regulations.

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9. During recent years, use of six 20 foot high portable, temporary lights was carried out at the High School's Stadium Field after approval from the Planning & Zoning Commission. This allowed the football team and other High School varsity sports team's weekday practice sessions under the lights for a maximum number of hours. It also allowed DJFL practices afterwards. The DJFL conducted a study and survey concerning the practice sessions and the use of the portable lights, and about the impact of these activities on the residential neighborhoods surrounding the High School. During the public hearing on the subject application, the use of the lights and the prior reports submitted by the Board of Education and DJFL on lights were discussed, and input from the general public was considered.
10. According to page 3 of the submitted project description/narrative submitted by the applicant, the placement and use of lights are requested to be as follows for 2012-2016:
HOURS:
- DJFL teams will use the field immediately after the DHS student athletes vacate the field. However, the lights are not to be used by the DJFL earlier than 5:30 p.m. or later than 7:00 p.m. when the DHS athletes are not present.
 - Maximum of 30 hours of weekday practices per calendar year.
- DAYS:
- Commencing no earlier than the second Monday in October (or the third Monday if October 1st falls on a Monday).
 - Concluding when the date the last DJFL team is eliminated from the playoffs or; the Friday before the championship games, which typically occurs on the third weekend in November (this is the weekend before the Thanksgiving holiday).
11. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon practices on the Stadium field now occur, and will continue to occur. Only practice sessions for DJFL teams are proposed to occur under the subject lights, and only on weekday afternoons, always ending at or before 7:00 p.m. (except for any testing specifically allowed herein) No other use of the lighted Stadium Field is being requested as part of this application. No lighted competitive games are proposed.
12. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. Actions have been taken since prior lights applications for this property to reduce impacts of temporary, portable lights on neighbors. This includes, but is not limited to: a) the use of "hard-wire" electric power rather than lights being run on diesel generators; b) exterior window treatments placed on the cafeteria windows to help reduce reflection from the lights; and c) the planting of over sixty evergreen trees along the northern perimeter of the property.
13. At the public hearing, the representatives from the DJFL noted that the proposal is to allow DJFL practices at the stadium field on weekdays only. It was noted that the dates proposed are the maximum usage, not necessarily the actual usage. The usage would decrease as DJFL teams get eliminated from the playoffs. It was also noted that practices are not usually held on Mondays, which also decreases the number of days the lights are likely to be on for DJFL teams. The applicant notes on page 3 of their submitted narrative that 30 hours is the maximum usage proposed, but not necessarily the actual usage.

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14. The applicant has requested to have the lights on from 5:30 pm (or immediately following the practice of any DHS team using the field, whichever is earlier) to 7:00 pm. It is important to note that the Darien High School teams who use temporary practice lights at the stadium field are generally finished with their use of the lights by 5:30 p.m., sometimes earlier. The DJFL application seeks use of the lights after the DHS teams are finished for the day. Thus, the request from DJFL is for approximately 1 ½ hours on a maximum of 15 days—a maximum of approximately 22 hours of use at this location. All of this is in addition to any possible use of lights for practices at Holahan Field, which is the subject of a separate but related Special Permit (Special Permit #125-D/Site Plan).
15. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were adequate for it to gain a sufficient understanding of the proposed activity. The Commission is looking for both representatives of the DJFL and representatives from the Darien Board of Education to manage this temporary lights program to ensure full compliance with Section 405b of the Darien Zoning Regulations.
16. The subject application is solely for six portable, lights to be used for practices only (not games) on a temporary basis, only during certain hours from fall 2012 to fall 2016. The usage of the lights was specifically defined by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 2012 requires a subsequent Special Permit application to this Commission.
17. The information gathered during this maximum 30-hour period nonetheless could be helpful in any future analysis of light use proposals for the subject property. The Commission notes that if the period proposed had been for a longer span of weeks, there could have been other stipulations required by the Commission to ensure that the lights and activities would not have an impact on the neighborhood. During the hearing for this application, neighbors appeared and presented photographs taken from various neighborhood locations which showed the light from prior temporary practice lights at the DHS stadium field.
18. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. The Commission believes that a longer-term approval for lights beyond those contained in this approval and the related Special Permit Application #188-B(1)/Site Plan for the Board of Education could have unacceptable impacts on the neighbors and upon neighboring properties. It is incumbent upon the DJFL and the Board of Education to continue to work toward improvements which will minimize any potential impacts from the lights and the lighted activities on neighbors and neighboring properties.
19. The 2006 Town Plan of Conservation and Development provides for the preservation of the residential character of Darien.
 - The Plan also notes Darien is fully developed, and the Commission acknowledges the resultant scarcity of public resources and potential strain on adjoining land uses. This strain is particularly evident in the neighborhoods surrounding all of Darien's public schools and Town-owned properties and the need for athletic fields and open space to accommodate both public and private use.

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- The Commission acknowledges the need to closely monitor the use of these field resources to ensure minimal encroachment on neighboring residential development.
 - Any incremental use and physical enhancement to the existing fields and facilities is subordinate to maintaining the character and quiet enjoyment of these preexisting neighborhoods. The Commission has traditionally maintained the preservation of residential character with regard to any increased use of adjacent properties.
20. An important aspect of this determination is the fact that this will be a use for a limited time, such that any impact upon property values and normal residential levels of nighttime quiet residential use will not be unreasonable given such a short time period of operation, a maximum of 30 hours annually by this applicant, and additional hours by the Board of Education, with the lights being off at 7:00 p.m., except for certain testing allowed herein.
 21. Given the short and limited duration of the proposed use, the location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
 22. 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.
 23. The limited nature of the proposed lighting is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
 24. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
 25. The design, location, and specific details of the proposed use 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.
 26. 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 #188-D(1)/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation and use of the portable, temporary lights shall be in accordance with the plan shown on page 6 of the applicant's submitted materials (Attachment #1—Map of six lighting units' approximate location.)
This plan shows the proposed location of six (6) proposed portable temporary light units. The actual location and height of the lights are as modified herein.

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- B. The Commission notes that the applicant has proposed that the temporary, portable lights will be plugged into existing electrical outlets, and not run off of generators. This is an integral part of this approval. The Commission is requiring that the scoreboard and amplified public address system not be used during these practice times.
- C. Installation of the portable, temporary lights shall be in general accordance with the placement of the lights during the fall of 2011—six lights placed on the eastern side of the field, spaced generally evenly apart. They *may be up to thirty feet high*, as allowed in the Zoning Regulation amendment which takes effect on August 5, 2012. Slight positioning adjustments are encouraged to be made in the field to minimize impacts, but should be substantially similar to the placement made last year. The DJFL hereby has the ability to work with the Planning and Zoning Director to move, slightly relocate, tilt, shield and/or angle the lights to find the area of least impact. However, no more than six lights can be used. They can be at the maximum height, but they also may be lower. The Commission strongly encourages this type of “field adjusting” to arrive at the best plan which complies with Zoning Regulation subsection 405b(4)(c). All such testing (moving, angling, tilting, etc.) shall occur during the first two-three weeks of the approved use period, and may occur no later than 7:30 p.m. Once the “best” location has been selected, a detailed plan shall be given to the Planning and Zoning Director no later than November 18, 2012, indicating the location of the temporary lights, the direction and elevation in which they are aimed, and any shielding of the light filament or source element.
- D. This Special Permit shall cover a period of only the 2012 practice seasons at the Stadium Field. During the weeks when portable temporary practice lights are in use, they shall be used by DJFL no earlier than 5:30 p.m. It is acknowledged that as part of the related Board of Education application, DJFL may be practicing directly after DHS student athletes leave the field. In those cases, the lights do not need to be turned off, but may remain on for the DJFL practice.
- E. Based upon the potential needs of some DJFL teams’ early evening practice sessions, a Special Permit for use of six portable light stands, as described during the public hearing, shall be granted to the applicant for use at the Stadium Field. The lights may be used beginning as soon as Monday, October 15, 2012. The 2012 dates approved herein shall be per the submitted application materials. The lights may be used by one or more DJFL teams as follows:
HOURS:
- As noted by the applicant in the submitted application materials, the lights are not to be used by the DJFL earlier than 5:30 p.m. or later than 7:00 p.m., except as authorized for testing as noted herein when the DHS athletes are not present.
 - Maximum of 30 hours of weekday practices per calendar year.
- DAYS:
- Commencing no earlier than the second Monday in October (or the third Monday if October 1st falls on a Monday).
 - Concluding when the date the last team is eliminated from the playoffs or; on the Friday before the championship games, which typically occurs on the third weekend in November (this is the weekend before the Thanksgiving holiday).
- F. The lights herein are proposed for a very limited duration. Any longer duration would trigger increased scrutiny by the Commission per the Darien Zoning Regulations. Similarly, this

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request/approval is not for games--only practice, and not for use on weekends. Any game or weekend usage would also trigger increased scrutiny by the Commission.

- G. Because it is possible that the high school teams are eliminated from the playoffs prior to the end dates allowed herein, there is a chance that the lights may be in use only by DJFL on certain weekdays. Conversely, if DJFL teams get eliminated earlier in the season, it is possible that the lights may be in use only by one or more high school teams on certain weekdays. It is also possible that the lights may not be used on certain weekdays at all within the total approved period due to practice schedules. Whether or not all of the permitted times and dates are used, no dates or hours of lighted practice sessions are authorized beyond those set out in this decision.
- H. Three contact phone numbers shall be submitted to the Planning and Zoning Office before September 30, 2012 and prior to the seasonal installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter, and should be for a representative of the DJFL. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. It will also allow Planning and Zoning Department staff to contact someone regarding any proposed questions or concerns, or to arrange a site visit during the lights operations. Any phone calls received from neighbors by the DJFL representative regarding the lights during the fall lights use period shall be logged, and included in the subsequent "post-operations" report required by the Commission herein.
- I. As noted herein, no use for games is permitted--practices only. As teams are eliminated from the playoffs, and fewer children are practicing, the DJFL is encouraged to continue to use fewer lights, as less field space may be needed for practice as the end of the approved use period approaches.
- J. Within 60 days after 2012 light use allowed under this decision (such final date expected to be near the end of November 2012), the DJFL shall prepare a written report outlining the following:
1. the dates and times when the lights were used;
 2. how many teams used the lights, and on which dates and times;
 3. any complaints regarding the noise, light, or other potential impacts to the neighbors; and
 4. what changes could be made to minimize potential impacts for temporary lights to be used in the future.

In order for the Planning & Zoning Commission to get a better understanding of how this has worked, a copy of said report shall be submitted to the Planning & Zoning Office before January 31, 2013, so that the Commission can discuss said report at a meeting in February 2013. The Commission is requiring that a "basic" report be submitted noting 2012 use with reporting in early 2013. This basic report shall include the dates and hours the lights were used, what teams used the field, as well as any complaints or comments received. These reports will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights use may have had.

- K. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The Commission hereby confirms that any future application for lights, whether

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temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.

- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights or use of the lights by DJFL.

Chairman Conze then read the following agenda item:

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.*

A motion was made to waive the process of reading each draft resolution aloud. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

The Commission members felt that the approval for the High School should be similar to that which had been approved for the DJFL. It will allow the 30 foot light poles for the first year and will be reconsidered during 2013 for subsequent years. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the one year permit for the use of temporary and portable lights. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 24, 2012**

Application Number: Special Permit Application #188-B(1)/Site Plan
Darien Board of Education, Darien High School, 80 High School Lane

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of: Darien Board of Education/Town of Darien
Property Owner: 2 Renshaw Road
Darien, CT 06820

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Name and Address of Applicant: Darien Board of Education
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant's Representative: Dr. Stephen V. Falcone
Darien Public Schools
2 Renshaw Road
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road.

Zone: R-2

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 24, 2012

Action: GRANTED WITH STIPULATIONS
AND MODIFICATIONS
EFFECTIVE AUGUST 12, 2012 AT TWELVE
NOON.

Scheduled Date of Publication of Action:
August 3, 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, 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 application materials, 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.

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

1. The application is 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. At the June 26, 2012 public hearing, the applicant's representative, Dr. Falcone, noted that they are requesting a five-year approval. He explained that this application is different to prior High School applications for this property in that: a) they are requesting a five year approval; b) they are changing the first possible evening of light use to the first Monday in November; and c) they have requested that the lights be placed to 30 feet or the maximum allowed under the Zoning Regulations.
2. The Commission notes that there is a related application for temporary lights for exclusive use by the Darien Junior Football League (DJFL) at this property (Special Permit Application #188-D(1)/Site Plan). Both the subject application and that application were heard simultaneously on June 26, 2012. That DJFL application has been decided separately. Also, an application was put forth by DJFL to modify the Darien Zoning Regulations subsection 405(b) to allow temporary lights to be up to thirty feet high (Change of Zoning Regulations #2-2012), and that also has been decided separately.
3. The purpose of the temporary portable lights is to have practices on the Stadium Field for a number of high school sports teams. As noted within the submitted "Guidelines for 2012 Use of Temporary Plug-in Portable Light Poles", the Director of Athletics will make the determination on the field assignments, and which teams are able to practice on this field during the approved weekday times herein.
4. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring Special Permit. At the time this application was submitted, that subsection read as follows:

b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:

 - (1) The source of such lights shall be concealed from surrounding residential properties;*
 - (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 - (3) No lighting facilities shall be mounted at a height greater than 20 feet above grade.*

As noted in finding #2, above, an application was put forth by DJFL to modify the zoning regulations. That has been decided as part of a separate application, and that zoning regulation amendment takes effect on August 5, 2012. The new regulation (with the newly adopted wording in bold) reads as follows:

b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:

 - (1) The source of such lights shall be concealed from surrounding residential properties;*
 - (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*

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- (3) *No permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.*
- (4) *Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:*
- a) *Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;*
 - b) *Located on public (i.e. Town-owned) property; and*
 - c) *Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.*

5. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-family houses; and with the Stadium Field, in particular, located directly upon a portion of that neighborhood. The Commission's application of its own Regulations to this request for a Special Permit requires that these location and proximity factors be considered fully in applying each element of those regulations.
6. During recent Fall Sports seasons at Darien High School, use of six 20 foot high portable, temporary lights was carried out at the High School's Stadium Field after approval from the Planning & Zoning Commission. This allowed the football team and other High School sports team's weekday practice sessions under the lights for a maximum number of hours. It also allowed DJFL practices afterwards. The Darien Board of Education conducted a study and survey concerning the practice sessions and the use of the portable lights, and about the impact of these activities on the residential neighborhoods surrounding the High School. During the public hearing on the subject application, the use of the lights and the prior reports submitted by the Board of Education on lights were discussed, and input from the general public was considered.
7. According to the submitted project description/narrative, the placement and use of lights are requested to be as follows for 2012-2016:
HOURS:
The lights can come on when daylight conditions require their use.
The lights must be turned off no later than 6 p.m.
DAYS:
Commencing on the first Monday in November;
Concluding at the end of the high school football season, which usually ends later than the field hockey season.
--If the high school football team does NOT make the State tournament, then the last day of light use would be on the Wednesday before Thanksgiving.
--If the high school football team DOES make the State tournament, then the lights are proposed to be used through the first week of December.
8. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were adequate for it to gain a sufficient understanding of the proposed activity. The Commission is looking for the Board of Education and its representatives to manage this temporary lights program to ensure full compliance with Subsection 405b.

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9. The subject application is solely for portable, temporary lights to be used during the described fall sports seasons during 2012-2016. The usage of the lights was specifically defined by the applicant within the application materials and at the public hearing. Any request for lighting beyond 2012 requires a subsequent Special Permit application to this Commission.
10. The information gathered during this period could be helpful in any future analysis of light use proposals for the subject property. The Commission notes that if the approval period proposed had been a longer span of weeks each year, there could have been other stipulations required by the Commission to ensure that the lights and activities would not have an unreasonable impact on the neighborhood.
11. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon practices on the Stadium field now occur, and will continue to occur. Only practice sessions for high school sports teams are proposed to occur under the subject lights, and only on weekday afternoons, always ending at or before 6 pm. No other use of the lighted Stadium Field is being requested as part of this application.
12. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. Actions have been taken since prior lights applications for this property to reduce impacts of temporary, portable lights on neighbors. This includes, but is not limited to: a) the use of "hard-wire" rather than lights being run on diesel generators; b) exterior window treatments placed on the cafeteria windows to help reduce reflection from the lights; and c) the planting of over sixty trees along the northern perimeter of the property.
13. The Commission believes that an approval using lights for a longer number of weeks per season beyond those approved herein and the related Special Permit Application #188-D(1)/Site Plan for DJFL could have unreasonable impacts on the neighbors and upon neighboring properties. It is incumbent upon the DJFL and the Board of Education to continue to work toward improvements which will minimize any potential impacts from the lights and the lighted activities upon neighbors and neighboring properties.
14. The 2006 Town Plan of Conservation and Development provides for the preservation of the residential character of Darien.
 - The Plan also notes Darien is fully developed, and the Commission acknowledges the resultant scarcity of public resources and potential strain on adjoining land uses. This strain is particularly evident in the neighborhoods surrounding all of Darien's public schools and the need for athletic fields and open space to accommodate both public and private use.
 - The Commission acknowledges the need to closely monitor the use of these field resources to ensure minimal encroachment on neighboring residential development.
 - Any incremental use and physical enhancement to the existing fields and facilities, especially using exterior lighting at night, is subordinate to maintaining the character and quiet enjoyment of these preexisting neighborhoods.
15. Given the short and limited duration of the proposed use, the location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

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16. 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.
17. The limited nature of the proposed temporary lighting (less than 30 days) is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
18. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
19. The design, location, and specific details of the proposed use 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.
20. 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 #188-B(1)/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the portable, temporary lights shall be in accordance with the following:
 - “Guidelines for 2012 Use of Temporary Plug-in Portable Light Poles”.
- B. The Commission notes that the applicant has proposed that the temporary, portable lights will be plugged into existing electrical outlets, and not run off of generators. This is an integral part of this approval. The fact that the scoreboard and amplified public address system will not be used during these practice times is also an integral part of this approval.
- C. Installation of the portable, temporary lights shall be in general accordance with the placement of the lights during the fall of 2011—six lights placed on the eastern side of the field, spaced generally evenly apart. They may be up to thirty feet high, as allowed in the Zoning Regulation amendment which takes effect on August 5, 2012. Slight positioning adjustments are encouraged to be made in the field to minimize impacts, but should be substantially similar to the placement made last year. The Board of Education hereby has the ability to work with the Planning and Zoning Director to move, slightly relocate, tilt, shield and/or angle the lights to find the area of least impact. However, no more than six lights can be used. They can be at the maximum height, but they also may be lower. The Commission strongly encourages this type of “field adjusting” to arrive at the best plan. All such testing (moving, angling, tilting, etc.) shall occur during the first two-three weeks of the approved use period, and may occur no later than 7:30 p.m. Once the “best” location has been selected, a detailed plan shall be given to the Planning and Zoning Director no later than November 18, 2012, of the temporary lights, the

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direction and elevation in which they are aimed, and any shielding of the light filament or source element.

- D. This Special Permit shall cover a period of one annual Fall Sports practice season at the Stadium Field, through the end of 2012. During the weeks when portable temporary practice lights are in use, they shall be turned on as early in the afternoon as the High School officials determine that daylight conditions require their use, but no earlier than 3:00 p.m., and they shall be turned off no later than 6:00 p.m. It is acknowledged that as part of the related DJFL application, DJFL may be practicing directly after DHS student athletes leave the field. In those cases, the lights do not need to be turned off, but may remain on for the DJFL practice.
- E. Based upon the potential needs of some High School sports teams for late afternoon practice sessions, a Special Permit for the use of six portable light stands, as described during the hearing, is granted to the applicant for use only at the Stadium Field. The lights may be used by one or more high school sports teams as follows:
- HOURS:
- The lights can come on when daylight conditions require their use—but no earlier than 3 p.m.
 - The lights must be turned off no later than 6 p.m., except on days when DJFL practice sessions take place after High School teams are done for the day.
- DAYS:
- Commencing no earlier than the first Monday in November;
 - Concluding at the end of the high school football season.
 - If the high school football team DOES NOT make the State tournament, then the last day of light use would be no later than on the Wednesday before Thanksgiving.
 - If the high school football team DOES make the State tournament, then the lights are proposed to be used through no later than the first week of December.
- F. The lights herein are proposed for a very limited duration. Any longer duration would trigger increased scrutiny by the Commission per the Darien Zoning Regulations. Similarly, this request/approval is not for games--only practice, and not for use on weekends. Any game or weekend usage would also trigger increased scrutiny by the Commission.
- G. Because it is possible that the high school teams are eliminated from the playoffs prior to the end dates allowed herein, there is a chance that the lights may be in use only by DJFL on certain weekdays. Conversely, if DJFL teams get eliminated earlier in the season, it is possible that the lights may be in use only by one or more high school teams on certain weekdays. It is also possible that the lights may not be used on certain weekdays at all within the total approved period due to practice schedules. Whether or not all of the permitted times and dates are used, no dates or hours of lighted practice sessions are authorized beyond those set out in this decision.
- H. Three contact phone numbers shall be submitted to the Planning and Zoning Office before September 30, 2012 and prior to the seasonal installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter, and should be for the Superintendent of Schools, a representative from the Board of Education, and the schools' Athletic Director. This will allow the neighbors to contact someone

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directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. It will also allow Planning and Zoning Department staff to contact someone regarding any proposed questions or concerns, or to arrange a site visit during the lights operations. Any phone calls received from neighbors by the Superintendent of Schools, a representative from the Board of Education, and the schools' Athletic Director regarding the lights during the fall lights use period shall be logged, and included in the subsequent "post-operations" report required by the Commission herein.

- I. As noted herein, no use for games is permitted--practices only. As teams are eliminated from the playoffs, and fewer children are practicing, the Board of Education is encouraged to continue to use fewer lights, as less field space may be needed for practice as the end of the approved use period approaches.

- J. Within 60 days after 2012 light use allowed under this decision (such final date expected to be near the end of November 2012), the Board of Education shall prepare a written report outlining the following:
 - 1. the dates and times when the lights were used;
 - 2. which teams used the lights, and on which dates and times;
 - 2. any complaints regarding the noise, light, or other potential impacts to the neighbors; and
 - 3. what changes could be made to minimize potential impacts for temporary lights to be used in the future.In order for the Planning & Zoning Commission to get a better understanding of how this has worked, a copy of said report shall be submitted to the Planning & Zoning Office before January 31, 2013, so that the Commission can discuss said report at a meeting in February 2013. This basic report shall include the dates and hours the lights were used, what teams used the field, as well as any complaints or comments received. This report will also allow the Board Of Education to consider what they would do or could do differently, and to better understand what impacts the lights use may have had.

- K. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.

- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records prior to the installation of the temporary lights.

Chairman Conze then read the following agenda item:

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Land Filling & Regrading Application #145-C, Gene & Tracy Sykes, 5 Homewood Lane.

Proposing to spread pond dredging on-site, to install stone slab steps to replace timber steps, and to perform related site activities. *PUBLIC HEARING CLOSED: 7/17/2012.*

Commission members reviewed the draft resolution. The motion was made to waive the process reading the entire draft resolution aloud. The motion was made by Mrs. Cameron, seconded by Mr. Voigt and unanimously approved.

Mr. Spain said that the application was clear and the resolution accurately reflects his perspective on the application. The following motion was made: That the Planning & Zoning Commission adopt the follow resolution to approve the project subject to the conditions and stipulations as noted. The motion was by Mr. Cunningham, seconded by Mrs. Cameron and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 24, 2012**

Application Number: Land Filling & Regrading Application #145-C

Street Address: 5 Homewood Lane (formerly known as 14 Cross Road)
Assessor's Map #65 Lot #3

Name and Address of
Property Owners: Gene & Tracy Sykes
5 Homewood Lane
Darien, CT 06820

Name and Address of Applicant:
And Applicant's Representative: Edward Figura
Benedek & Ticehurst
448H Old Post Road
Bedford, NY 10506

Activity Being Applied For: Proposing to spread pond dredging on-site, to install stone slab steps to replace timber steps, and to perform related site activities.

Property Location: The subject property is located on the north side of Cross Road at the northwest corner formed by its intersection with Homewood Lane.

Zone: R-1

Date of Public Hearing: July 17, 2012

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

Publication of Hearing Notices
Dates: July 6 & 13, 2012

Newspaper: Darien News

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Date of Action: July 24, 2012

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
August 3, 2012

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted 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:

1. The proposal is to spread pond dredging on-site, to install stone slab steps to replace existing timber steps, and to perform related site activities. Because of the amount of material to be spread on-site, a Land Filling & Regrading Special Permit is required under Section 850 of the Darien Zoning Regulations.
2. At the July 17 public hearing, it was noted that the Sykes propose to dredge the existing pond on their property, enlarge it, and spread about 200 cubic yards of material on-site. The material will first be stockpiled to de-water it. They may roto-till the material into the existing top soil on the premises. The applicant's representative, Mr. Figura, said that he did not foresee bringing in any new material. They propose to place three inches to four inches of fill maximum in any one location on-site. They are not looking to change to the contours, and they are not looking to change the existing run-off patterns.
3. It was noted that the Environmental Protection Commission approved this application for dredging on their meeting of June 6, 2012 as part of EPC #22-2012. That approval is hereby incorporated by reference.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

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NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #145-C is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Dredging of the pond, placement of material on-site, and installation of stone slab steps to replace existing timber steps shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Site Development Plan for Mr. & Mrs. Gene Sykes, 5 Homewood Lane, by Benedek & Ticehurst, dated June 13, 2012, Drawing No. SD-1.
 - Pond Enhancement Plan for Mr. & Mrs. Gene Sykes, 5 Homewood Lane, by Benedek & Ticehurst, dated June 13, 2012, Drawing No. SD-2.
 - Stone Slab Steps Plan for Mr. & Mrs. Gene Sykes, 5 Homewood Lane, by Benedek & Ticehurst, dated June 13, 2012, Drawing No. SD-3.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Since there is no new impervious surface being created, the Commission waives the requirement for stormwater management under Section 880.
- C. At the public hearing, the applicant's representative noted that no new fill or material is proposed to be brought on-site during this project. The Commission hereby requires that no fill or other material be brought on-site.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans 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.
- E. Once the work is completed, an as-built drawing or written verification prepared by the landscape architect is hereby required to certify that the work is completed in compliance with the approved plans.
- F. 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.
- G. 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 agencies.
- H. 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

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plan within one (1) year of this action (July 24, 2013). This may be extended as per Sections 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. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Conze then read the following agenda item:

Approval of Minutes

July 17, 2012 Public Hearing/General Meeting

Several modifications and corrections and clarifications were discussed and agreed upon by all members. The following motion was made: That the Planning & Zoning Commission adopt the revised and corrected minutes. The motion was made by Mr. Hutchinson, seconded by Mr. Spain and unanimously approved.

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

The following motion was made: That the Planning & Zoning Commission discuss Flair Fitness, Maplewood at 599 Boston Post Road, and Kensett Lane off of Hoyt Street under "Other Business". The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

Flair Fitness:

Commission members discussed the request by Attorney Wilder Gleason, representing Flair Fitness owner Amy Shelton, to relocate the business from the Boston Post Road to a commercial building located on Mechanic Street and adjacent to the Goodwives Shopping Center. The building currently houses Fisherman's Net and a laundromat. The proposal is to occupy approximately half of the Laundromat space with Flair Fitness. Mr. Ginsberg said that the proposed intensity of use to have classes of 20 or 30 or as many as 40 students at the site at any given time would far exceed the on-site parking capabilities of the property. Attorney Wilder Gleason said that Mrs. Shelton has worked very hard to make sure the clients at her site park in the appropriate parking spaces on the existing site and will work similarly to make sure that there is no parking problem at the new location. An informal parking study conducted by the applicant over the past few days was submitted.

Amy Shelton said that her busiest time of the day is between 9:30 and 10:30 in the morning, which is a class that is approximately 30 people. Attorney Gleason said that the parking study indicates that there are approximately 28 parking spaces on site and only 5 of those spaces were occupied at the peak time on Saturday and only 7 were occupied on Monday at 11 A.M. He said that when additional parking is needed for the clients of the few large classes to be conducted at the site, those clients can park across the street at the Mechanic Street public parking lot. At the peak time, only about 19 out of the 47 parking space in the Mechanic Street lot were occupied. He said that Flair Fitness would purchase appropriate permits for their employees to park at the Mechanic Street parking lot so that the onsite parking spaces will be available for the employees of the other business and the clients of all three businesses. Ms. Shelton said that she would be willing to designate the eight parking spaces in front of the building for clients or customers of Fisherman's Net and the Laundromat so that her clients would not park in those prime parking spaces. It was noted that on Wednesdays the Farmer's Market takes up much of the space in the Mechanic Street parking lot.

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Attorney Gleason said that this is a personal service business which is under the category of Commercial Sales and Services. Mr. Hutchison said that it is the landlord's responsibility to coordinate parking needs of all the tenants. He said that even if the use was approved at this site, history has demonstrated that this is a thriving use and the conditions on site would not allow for any expansion of the business. Ms. Shelton said that the Town parking lot would be for employees and clients of local business and she proposes a business that will utilize those available parking spaces. The only time that there might be a parking problem would be in the mornings between 9:30 and 10:30 a.m. She said that they would not run the large classes on Wednesdays, which is the day the Farmer's Market operates on Mechanic Street. She said that the typical exercise class is 12 people, typical Zumba class is 20 people but the 9:30 to 10:30 Zumba class would get 30 people. She said that the Fire Marshal has indicated that the maximum occupancy of the space would be 40 persons.

Zoning Enforcement Officer David Keating said that the business operation has changed from what was originally proposed at the Boston Post Road site, which had been small classes of 6 to 8 patrons and a personal service type use to now being large classes of 20 or 30 or 40 people at a time, which is in the category of an indoor recreation facility. Such use requires Special Permit approval from the Planning & Zoning Commission. Before the Commission acts upon a Special Permit application, there must be a Public Hearing. Questions were raised about the adequacy of the onsite parking and the appropriateness of allowing a use that would depend on routinely using the municipal parking lot because there is not sufficient on-site parking. The Commission agreed that a formal application would need to be submitted and a Public Hearing will be scheduled for September, before making a decision on the matter.

Maplewood, 599 Boston Post Road:

Jeremy Ginsberg, Director of Planning, said that the renovation work at 599 Boston Post Road is proceeding and the operators now wish to have a temporary and conditional Certificate of Occupancy so that three of the units on the first floor will become accessible for viewing by perspective residents and their families. That way the people can walk through actual finished and furnished rooms and get a better idea of the living conditions that will be created within the rest of the building. The Fire Marshal and Building Official are making sure that all safety measures are being taken to protect the public as they walk through the building that is still under renovation. The three units would be used only as showrooms, and would not actually be lived in at this time.

Kensett Lane (previously known as Cedar Lane), Hoyt Street:

Jeremy Ginsberg, Director of Planning, said that the project continues and several buildings are nearing completion. The relocation process for Wakemore Street is underway and site work is progressing.

There being no further business, the meeting was adjourned at 10:30 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director

07.24.2012min