

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
SEPTEMBER 18, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg
RECORDER: Syat
CHANNEL 79

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

GENERAL MEETING

Site Plan Application #264-A Holmes School, 18 Hoyt Street, R-1/3 Zone.

Site Plan Application #283, Royle School, 133 Mansfield Avenue, R-1/2 Zone.

Site Plan Application #284, Ox Ridge School, 395 Mansfield Avenue, R-2 Zone.

Request to place above ground oil tanks at three schools on a temporary basis until mid-2013.

Michael Lynch of the Darien Board of Education, Director of District Facilities and Operations, explained that he was ordered by the State of Connecticut DEEP to stop using the existing underground oil tanks at the three elementary schools. There are now temporary tanks, which have been placed above ground. Mr. Conze asked why DEEP would issue such an order. Mr. Lynch responded that the tanks had expired their officially prescribed useful life. There was no indication of leakage, and the underground tanks are now pumped-out and empty. They moved the temporary tanks 5-20 feet away from where they plan on burying them, so there will be room to excavate. There is now oil being supplied by these above-ground temporary tanks. To place the permanent tanks underground, it will need approval from the State of Connecticut DEEP, the local Fire Marshal, as well as the Darien Health and Building Departments. He then referred to the schedule he had submitted to the Commission dated September 17, 2012, which shows the scheduled replacement activity running from September 12, 2012 to July 29, 2013.

Mr. Conze noted that his biggest concern is that the Board of Education may find contamination at the sites. He said that the Board of Education should have insurance in place. If remediation is needed, they may need to have reserve funds in the budget so they don't have to wait for the insurance to kick in. Obviously the project is time sensitive. Mr. Lynch confirmed that they wish to have an allowance to cover remediation. He noted that tanks did pass the tightness test and there are no records of any leaking. If remediation is needed, a new tank will be placed in an alternate location while they remediate. Mr. Conze confirmed that he wishes to have a healthy reserve available. Mr. Hutchison then made a motion to approve the three site plans as proposed. That motion was seconded by Mrs. Cameron and approved by a vote of 6-0.

Chairman Conze then read the first Public Hearing agenda item:

PUBLIC HEARING

Continuation of Public Hearing Regarding Business Site Plan Application #24-S/Special Permit, Flair Fitness, LLC., 25 Old Kings Highway North. Proposing to modify two storefronts to include the establishment of two smaller stores and two indoor recreation studios to accommodate up to 30 and 40 people. The spaces are located within Goodwives Shopping Center, which is located on the south side of Old Kings

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Highway North, approximately 150 feet southwest of its intersection with Brookside Road and is shown on Assessor's Map #71 as Lot #19, in the DC Zone.

Attorney Wilder Gleason of Gleason & Associates was present on behalf of the applicant. He noted that Flair Fitness will occupy the tenant space and also sub-lease to similar type uses, such as ballet classes, hip hop classes, ballroom dancing and others. Mr. Cunningham asked whether there are multiple studios proposed. Mr. Gleason confirmed that there will be two different studios. There will be 40 students maximum in the larger studio and 30 students maximum at any one time in the smaller studio. He said that there are revised plans which show the larger studio as being 1,225 square feet and the smaller studio being 625 square feet. They expect to stagger classes such that there is sufficient time between the end of one class and the starting of another class. They would like to have smaller classes from 12-1:30 P.M. with a maximum of 20 participants per classroom maximum. The type of classes that would be offered at that time could include: classes for children or "mommy and me" type classes. Mr. Gleason confirmed that parking is not an issue, as Goodwives Shopping Center has over 450 parking spaces now on site.

The space they propose to take at Goodwives Shopping Center is half of the former Rugged Bear space near the existing Global Pet Foods space. As noted by Mr. Gleason, there is lots of parking available. Mr. Gleason confirmed that they meet all the Special Permit standards as outlined within Section 1000 in the Darien Zoning Regulations, which they need to meet in order to allow an Indoor Recreational Facility use in this Zone. The associated retail pro shop, which is about 250 square feet, will support all of the businesses present in this space and is considered retail as-of-right usage. Mr. Gleason confirmed that the landlord said that they are not allowed to have karate in this space or a personal fitness space to compete with Koko Fit Club, which is now in the shopping center. Mr. Hutchison was pleased to hear that the landlord is considering the mix of uses within the shopping center to avoid direct competition. In response to a question, Mr. Gleason noted that the proposed tenant Flair Fitness is responsible for soundproofing their space so as not to impact adjacent tenant spaces. There were no further comments from Commission members, and no comments from members of the general public on this application. Mr. Spain then made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Hutchison and unanimously approved.

At about 8:15 P.M., Mr. Conze read the next agenda item:

Special Permit Application #39-M/Site Plan, St. Luke's Episcopal Church, 1864 Boston Post Road. Proposing to renovate a portion of the undercroft (the basement area below the main sanctuary building), and excavation of a portion of the berm surrounding the church building to create a new entrance. The undercroft will be renovated to be used as a new choir room. The subject property is located on the south side of Boston Post Road, at the southeast corner formed by its intersection with Ring's End Road, and is shown on Assessor's Map #49 as Lot #54, #55, and #56, in the R-1/2 and R-1 Zones.

Architect Neil Hauck was present representing Saint Luke's Episcopal Church. He explained that the existing church building pre-dates the Darien Zoning Regulations. The sanctuary is non-conforming relative to both setbacks and building height. In the past, the undercroft was used as a youth room. They now wish to move the music program to that space. They wish to have a new entryway from the parking lot and they will achieve that via excavation. He then showed the proposed elevation. He noted that there was no work within the wetland regulated area which is on the other side of the property. Mr. Hauck explained that parking is not an issue if there is no change in the proposed use of the building. Mr. Hauck added that they do need a variance from the Darien Zoning Board of Appeals (ZBA) for increasing the building height. This is because the average grade is dropping, thus changing the calculated building height. Mr. Spain then asked if the wall shown on the plans to have the new entrance is a load-bearing wall. Mr. Hauck responded that it is, and they will need to have a steel beam installed there, which is a delicate operation. Mr. Hauck noted that the Architectural Review Board (ARB), earlier this evening approved this project in concept and they now need to get a variance from the Zoning Board of Appeals for building height. Mr. Ginsberg noted that the

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Commission could receive the ZBA variance after the fact, and mentioned that if the variance is not received, the application will likely be withdrawn by the applicant.

There were no further comments or questions from Commission members. Mr. Conze asked if there were any comments or questions from the general public, and there were none. Mr. Spain then made a motion close the Public Hearing on this matter, subject to the receipt of the required Zoning Board of Appeals variance. That motion was seconded by Mrs. Cameron and approved by a vote of 6-0.

At about 8:25 P.M., Chairman Conze read the next agenda item:

Special Permit Application #273, Brendan Johnson, 30 Stephanie Lane. Proposing to establish a 30' x 30' asphalt sport court and perform related site activities. The subject property is located on the south side of Stephanie Lane, approximately 1,700 feet west of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #8 as Lot #60, in the R-1/2 Zone.

Matthew Biron of Hoffman Landscapes was present to describe the application. He explained that the intent is to create a play space. He noted that the existing driveway on the subject property pitches down to the street so it isn't good for basketball; and what they are looking to establish is a 30 foot by 30 foot paved back yard area for basketball. This paved area would be 25 feet off of the side lot line and 25 feet off of the rear lot line. Mr. Biron then showed the proposed improvements and where the abutters are relative to the Johnson house. He explained that they looked at siting the asphalt paved area in the other corner of the rear yard, however there are wetlands on the adjacent property and thus, they would be working in the regulated area. He then showed the proposed stormwater recharger, catch basin and overflow to be constructed as part of this play area. He noted that there are two optional places adjacent to the asphalt that they may put a basketball pole, along with an optional backup netting. There will be no tennis backboard wall or other such wall to be placed. Mr. Biron then showed photographs, and noted the proposed plantings, which will fill in over time. The proposed evergreens vary in height as shown on the planting plan. They propose to paint the asphalt green and have no striping on the asphalt. The Johnson children are now 8 and 10 years old. They hope to plant the area in the fall of this year. Mr. Hutchison asked if there would be lighting on the Johnson house shining on to the sport court. Mr. Biron responded there would be no lighting on the house for the court.

Mr. Cliff Evans of 34 Stephanie Lane said that he is the adjacent property owner. He stated that the proposed sport court will decrease his property value. The noise will adversely affect his quality of life. He explained that the sport court would be used frequently by children. He mentioned that some trees were removed and some regrading was done. He asked what if the children want a wall to hit against or temporary lighting. He noted that if the Commission were to approve it, that he ask the Commission limit use to no earlier than 9 A.M. and an agreed time at the end of the day. Mr. Evans mentioned that trees and bushes do not block sound and that noise is a concern for others in the neighborhood as well. Those neighbors are here tonight and also object to the sport court. He then referred to his materials which he put forth in his submitted booklet previously given to the Commission. He said that the corner of his house would be 65 feet from the edge of the sport court and then he reviewed the submitted photographs which he had put in his booklet.

Mrs. Cameron said that she disagreed with Mr. Evans, and believed that the plant material to be used on the Johnson property could influence sound. She asked what if the Johnsons were to use their driveway for basketball. Mr. Cunningham noted that the existing Johnson driveway appears to be closer to the Evans property line than the proposed sport court. The driveway has no screening. He asked Mr. Evans whether the sport court is a noise issue or a sight issue. Mr. Evans responded that the proposed sport court would be a noise issue for the deck at the rear of his house, and that his house blocks the noise coming from the Johnson driveway. Mrs. Cameron asked about a possible pool in the location where the sport court is shown on the Johnson property. Mr. Evans responded that he also would be opposed to a pool in that location. Mr. Hutchison tried to summarize by noting that Mr. Evans appears to be opposed to the use of the sport court, not the look of the structure. He asked specifically what would cause the diminution in Mr. Evans' property

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value. Mr. Evans responded that he has consulted with realtors who would not make a written commitment. He said that he also went to appraisal companies who said that they too would not make a written commitment on change to property value. Mr. Hutchison again confirmed that it is the use that Mr. Evans is opposed to, not the actual existence of the sport court. Mr. Evans confirmed that he is not complaining about the appearance of the sport court, but rather the noise from the use of the sport court. Ms. Cameron mentioned that the Johnsons could install a pool and jungle gym there as-of-right, which could also result in noise. Mr. Hutchison confirmed that a spotlight which would shine on the court would not be permitted by this Commission.

Mr. Spain then asked Mr. Evans his view on potential screening of the sport court. Mr. Evans responded that there was a dense woods on the Johnsons property, which was a barrier. The Johnsons cleared the trees on their property so that new plantings can be installed. Mr. Spain noted that if the Johnsons have no further room for screening on their property, Mr. Evans could let them plant trees on his (Mr. Evans') property, which may give both sound and visual protection.

Mr. Conze noted that due to the severe weather in the area, this Public Hearing would have to be continued to another night. Mr. Ginsberg noted that a Special Meeting could be established on Thursday, September 27, 2012 at 8 P.M. in Room 206 of Darien Town Hall. Ms. Cameron noted that in the interim, Mr. Evans should consider the possibility of having the Johnsons install plantings on his property. Mr. Spain mentioned that the Johnsons may wish to consider putting the sport court closer to their own house, rather than the neighbor's house, and they should measure exact distances from the Evans house to the Johnsons' house, ignoring the existing Johnson's garage wing. Mr. Conze suggested consider swapping the location of the sport court with their tentative location for a pool, which could mean the court were placed further into the Johnsons property. The Public Hearing on this matter was then continued to September 27, 2012 at 8 P.M. in Room 206 of Town Hall.

Chairman Conze then read the following two public hearing agenda items and mentioned that both Public Hearings will be opened tonight and immediately continued to Thursday, September 27, 2012 at 8 P.M. in Room 206 of Town Hall.

Coastal Site Plan Review #276, Flood Damage Prevention Application #308, Bryan & Sara Murphy, 1 Baywater Drive. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas. The subject property is located on the northeast corner of the intersection formed by Baywater Drive and Nearwater Lane, and is shown on Assessor's Map #55 as Lot #12 & #13, in the R-NBD Zone.

Coastal Site Plan Review #252-A, Land Filling & Regrading Application #278, Hans Mende (253 Long Neck Point Road, LLC), 253 Long Neck Point Road. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area. The subject property is located at the east side of the terminus of Long Neck Point Road, and is shown on Assessor's Map #61 as Lot #13-4, in the R-1 Zone.

Mr. Conze stated that the other General meeting agenda items on this agenda will also be placed on that September 27 agenda. Mrs. Cameron then made a motion to adjourn the meeting. That motion was seconded by Mr. Spain and unanimously approved. There being no further business, the meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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