

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 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

RECORDER: Syat

---

Mr. Conze opened the meeting at 8 P.M. and read the first agenda item:

**GENERAL MEETING**

**Site Plan Application #268/Special Permit, The Heights at Darien (former Allen O'Neill), Allen O'Neill Drive.**

Request to modify previously approved community building.

Mr. Conze asked Mr. Ginsberg to summarize this matter. Mr. Ginsberg then gave a timeline/summary of the request that was submitted in a September 14, 2012 two-page letter from Todd McClutchy, noting the desire to expand the previously approved community building by adding about 1,100 square feet, bringing the building from 1,736 square feet to 2,838 square feet. As noted in Mr. McClutchy's letter, the increase in size was due mainly to the inclusion of a 400 square foot fitness center, a 200 square laundry room, and a larger office for the on-site manager and leasing agent. The outdoor patio would also be about 48 square feet larger. Mr. Ginsberg mentioned that the green space and open space would need to be modified from that previously approved by the Commission. Mr. Ginsberg explained that this item was originally on the Commission's September 18, 2012 agenda but the meeting was cut short and it was put on the September 27, 2012 agenda but there was no quorum that night. The first Planning & Zoning Commission discussion on this matter was on October 2, 2012 and lasted for about 45 minutes. At that meeting, Mr. Ginsberg said that many e-mails had been received from neighbors surrounding the project. He noted that additional e-mails were provided to the Commission tonight, two from Jan Pierret and one from Bruce Fagerstrom. Both of those were distributed to the Commission prior to the meeting. Supplemental material was submitted by Mr. McClutchy on October 12, 2012 with answers to a number of questions, including tree replacement and distances from the building to the existing property lines. At that meeting, Mr. Ginsberg also gave Commission members various pages from the Connecticut Housing Finance Authority (CHFA) Standards of Design and Construction.

At the November 13, 2012 meeting, the Planning & Zoning Commission spent about 40 more minutes deliberating on this matter. At that meeting, Mr. Ginsberg noted that if the project is approved or revised, an open space map would have to be filed in the Darien Land Records. At that November 13, 2012 meeting, the Commission tabled the matter to tonight. Mr. Ginsberg explained that supplemental materials dated November 20, 2012 were submitted by Mr. McClutchy. In those materials, Mr. McClutchy stated that the additional space would have no impact on the drainage, as confirmed by their engineer. He confirmed that the proposed addition would be 1,100 square feet,

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 2 OF 8

most of which is the 400 square foot fitness room and the 200 square foot laundry room. They committed to a three for one tree replacement. Mr. Ginsberg mentioned that the 1,100 square feet of floor space is on 11.68 acres of property. Mr. Ginsberg explained that he spoke on the phone with Arthur Anderson earlier this afternoon about the need for a laundry room, and was advised that this need is partially brought on by the fact that Aquarion Water Company would not allow individual water meters for each unit. He sent a summary of that conversation on to Commission members earlier in the day. Mr. McClutchy then confirmed that Aquarion did deny individual water meters, and that residents would be able to rent washers and dryers from management. Mr. Voigt asked whether submeters could be used. Mr. McClutchy said that Aquarion Water Company insisted on having a third party verification so that was not an option. Mr. Spain noted that drainage was very important in the original approval, and he believed that the stormwater management in the future should be better than under the old configuration of Allen O'Neill. He said that the Commission gave great consideration to the neighborhood impact when approving this project, and that the Commission should not take this request lightly. The Commission must weigh what is the impact on the existing neighborhood from the requested modifications. He believed that the leasing office for this project on-site is a proper ancillary use. There is one big tree to be replaced, which can certainly be coordinated with the Planning & Zoning Director in terms of three new replacement trees. The 1,100 square feet will have no increase in runoff. The plan calls for redefining of the open space and a new map to be filed in the Land Records. Mr. Spain said that he does not see that the Commission is impacting the overall community if it decides to approve this change. Mr. Spain did not believe that this would intensify any activities on site and it may actually reduce the traffic if there is an on-site laundry facility and leasing office. He did hear the concerns of the neighbors via email on this matter and he suggested approving this with the expectation that the modified community building will make the project a better place.

Ms. Cameron said that four of the Commission members are new since the Allen O'Neill project has been approved, and that only Mr. Conze and Mr. Spain were on the Commission at that time. She believed that the re-development is too much for the subject property, and she too has read through the neighbor's emails noting their concerns. She said that the neighbors want much better landscaping around the periphery of the site, and believed that the site is too heavily developed. Mr. Conze said that the Commission can take a look at the landscaping plans which had previously been approved and that Mr. Ginsberg should talk to the developer about supplementing those plans, especially along the eastern property line. He noted that landscaping is not being applied for in this request, solely the modification to the community building. Ms. Cameron asked what the concessions were as part of the original development and the developer noted that they have already given concessions. Mr. Ginsberg responded that the Planning & Zoning Commission approval in 2009 lowered the original number of requested units. The subsequent litigation put forth by Peter Rogers again lowered the number of units, and made significant streetscape requirements on Elm Street. Mr. McClutchy added that there was a concession made by the developers on the phasing, and that in response to the project litigation made the Elm Street construction part of Phase Three, whereas they had originally hoped to do that as part of Phase One. Mr. Spain noted that the Planning & Zoning Commission required significant drainage improvements to the site and that those had to be done early on in the project. Mr. Ginsberg then distributed the proposed Floor Plan and the proposed Site Plan for the modified community building and explained why the Housing Authority needs a Special Permit to move on site.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 3 OF 8

Mr. Hutchison said that had he asked for the CHFA requirements, which make this modified community building a necessity. He agreed with Ms. Cameron that the 106 units on the site is a drastic change from the previous 53 units. He believed that what was approved by the Commission was aggressive. He said he focused on the need for the community building and at this time, he opposes this. Mr. McClutchy responded that the modified community building will cost the developers extra money but provides a better product. Mr. Hutchison asked how Mr. McClutchy could have missed this as part of the original proposal. Mr. Hutchison said that this is an aggressive project and he thinks it is too much for the property. He has never gotten a great answer as to why the community building was originally designed a certain way. Mr. Conze mentioned that any large project of this size will certainly have change orders along the way. Mr. Hutchison responded the project was too big initially, and the Commission is just adding more square footage as part of this request. Mr. Conze countered that this is actually a small amount of new impervious surface on an 11+ acre site. Mr. Hutchison did note that the modified building would enhance the quality of life on-site. Mr. Voigt mentioned that this is an incremental modification, and he does not see the point in opposing it when it will actually be an improvement to the residents who live there. Mr. Conze then asked the developer for a commitment to do a walk through with the Commission at an upcoming meeting in January or February to look specifically at the landscaping plans along the eastern and southern property lines to see if those can be "beefed up" in any way.

Mr. Voigt then made a motion to approve the modified community building with the two conditions mentioned by Mr. Ginsberg earlier in the evening: 1) that a revised open space mylar and an associated revised Open Space Declaration be filed in the Darien Land Records within the next 30 days; and 2) a 3 for 1 tree replacement plan be implemented, with additional details about the trees to be planted to be coordinated with the Planning & Zoning Director. Mr. Spain seconded that motion, which was approved by a vote of 5-1, with Ms. Cameron voting in opposition.

At about 8:52 P.M., Mr. Conze read the next agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing Regarding 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. *THIS APPLICATION HAS BEEN WITHDRAWN.*

Mr. Conze noted that this item has been withdrawn.

Mr. Conze then read the following agenda item:

**Coastal Site Plan Review #278, Flood Damage Prevention Application #310, Land Filling & Regrading Application #284, Justin & Mary Beth Livengood, 12 Cross Road.** Proposing to raze the existing residence; construct a new single-family residence with associated septic system; modify the driveways; and perform related site development activities within regulated areas. The subject property is located on the northeast corner formed by the intersection of Cross Road and Hope Drive, and is shown on Assessor's Map #65 as Lot #1, in the R-1 Zone. *POSTPONED TO 1/8/2013.*

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 4 OF 8

Mr. Conze said that this item has been postponed to January 8, 2013 at 8 P.M. in Room 206 of Town Hall.

Mr. Conze then read the following agenda item:

**Continuation of Public Hearing regarding Flood Damage Prevention Application #309, Bill & Lynn Hamlen, 7 Davis Lane.** Proposing to relocate an existing storage shed from the west side of the property to the east side of the property, and to perform related site development activities within a regulated area. The subject property is located on the south side of Davis Lane approximately 250 feet west of its intersection with Five Mile River Road, and is shown on Assessor's Map #67 as Lot #25, R-1 and R-1/2 Zones. *HEARING OPENED 11/20/2012.*

Ms. Cameron recused herself from this matter and left the meeting room. Lynn Hamlen of 7 Davis Lane explained that she is proposing to move the shed which is now on the western portion of her property. She explained that her property is now split zoned between the R-1 and R-1/2 Zones. The shed is now non-conforming, as it is too close to her western property line. She had hired an engineer, Rob Frangione, who submitted a letter for the record on this matter noting that the proposed shed complies in every way with the Flood Damage Prevention Regulations.

Mr. Ginsberg then read aloud the comments received from SWRPA. Mr. Ginsberg confirmed that a September 24, 2012 letter had been received from Professional Engineer Rob Frangione and the shed does comply with the Flood Regulations.

There being no further questions or comments from Commission members, and there being no comments from the general public, Mr. Spain made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and approved by a vote of 5-0.

Mr. Conze read the following agenda item:

**Continuation of Public Hearing Regarding Business Site Plan #86-D/Special Permit, Bob Bantle, 365 Boston Post Road.** Proposing to remodel/renovate the existing 365 Boston Post Road building formerly occupied by United Rentals, and to establish a new personal service use with related retail sales and office use, and perform related site development activity. The subject property is located on the north side of Boston Post Road, approximately 250 feet west of its intersection with Birch Road, and is shown on Assessor's Map #14 as Lot #50, in the DB-2 Zone. *PUBLIC HEARING ORIGINALLY OPENED 10/23/2012.*

Ms. Cameron then returned to the meeting room. Attorney Wilder Gleason was present on behalf of the applicant. He noted that the proposed use will be a combination of internet sales, a personal service use, and office use. He explained that the former oil tanks on the property have been removed. He explained that they went before the Architectural Review Board earlier this evening. He said that the façade change was conceptually okay; however, he will need to return to ARB on December 18, 2012. The property is now almost at 90% developed site area. They hope to bring natural gas, which is now on the Boston Post Road, in front of the property, into the building and bring the building up to current building codes. There is proposed landscaping along the eastern

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 5 OF 8

property line between this property and the adjacent Lupinacci property to the east. There is a slight grade change in this location. They will be removing the existing impervious pads in the back of the building to make a putting green with a little bit of regarding. They will work with Planning & Zoning Commission staff on appropriate underground detention under the putting green.

Mr. Gleason said that there would be two ways for the Commission to review the necessary parking for this project. One method could be under Section 904t and the Commission could state that 14 spots are appropriate for the unique use, or under Section 905, which allows for shared parking for multiple uses on the same property.

Mr. Bob Bantle explained that for the office uses, there would be two to three employees plus himself. There would also be occasional board meetings where additional patrons would come to the property. Mr. Gleason noted the applicant would be willing to stipulate that if his use, his office use, or the retail use changes, they would need to come back to Planning & Zoning Commission for specific approval on the new use. Part of the proposed use is one-on-one golf training, which will be held either indoors or outdoors. Darren Anderson would be giving club lessons and custom club fittings. They will be including some trap rock under the proposed putting green to be installed behind the building.

In response to a question, Mr. Bantle explained that he did perform and complete a Phase I and Phase II study of the property. Mr. Conze asked for a copy of those to be submitted for the record in this matter. Mr. Gleason said that as noted on the submitted floor plans, they are in full compliance with the floor area ratios maximum allowed by the Zoning Regulations in this zone. They are including second floor storage over the retail space, which will have a lower ceiling height of seven feet, nine inches, so it will not be considered habitable space. Mr. Gleason said that there will be some retail sales on site, as well as some one-on-one instruction in golf. Mr. Darren Anderson explained that he will be giving lessons on site and having custom club fittings. There would also be sales of the Flexor golf equipment on-site. Mr. Ginsberg then read aloud the comments received from the Darien Fire Marshal. In response to a question by Ms. Cameron, Mr. Steve Larkin noted that there will be a separate trash bin and recycling bin on site. Mr. Bantle added that they will screen any Dumpsters to be installed. Mr. Cunningham complimented Mr. Bantle on the extensive work to upgrade the property. Mr. Gleason added that they are asking for a waiver of the required loading zone pursuant to Section 909 of the Darien Zoning Regulations.

There being no further questions from Commission members and no members of the general public present to speak, Mr. Spain made a motion to close the public hearing on this matter. That motion was seconded by Mr. Hutchison, and was unanimously approved.

At 9:12 P.M., Mr. Conze read the following agenda item:

**Amendment of Protected Town Landmark #6, JHL Properties, LLC, 70 Old King's Highway North.** Proposing to construct additions and alterations to the existing office building (the Joshua Morehouse Homestead), which was designated as a Protected Town Landmark in 1990. The subject property is located on the north side of Old King's Highway North, approximately 250 feet east of its intersection with Brookside Road, and is shown on Assessor's Map #35 as Lot #14, in the DB-2 Zone.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 6 OF 8

Mr. Conze said that this public hearing will be opened tonight and immediately continued to December 11, 2012 at 8 P.M. in Room 206 of Town Hall.

Mr. Conze then read the following agenda item:

**Protected Town Landmark #8, Coastal Site Plan Review #279, Flood Damage Prevention Application #311, Land Filling & Regrading Application #285, Jim & Susan Ozanne, 94 Ring's End Road.** Proposing to declare the proposed building to be a Protected Town Landmark, elevate the structure, rebuild the piers, retain the first floor deck, raze substantial portions of the residence and restore the building, and perform related site development activities within regulated areas. The subject property is located on the southwest side of Ring's End Road, approximately 550 feet south of its southern intersection with Harbor Road, and is shown on Assessor's Map #51 as Lot #3, in the R-1 Zone.

Mr. Conze then mentioned that this item will be opened tonight and immediately continued to December 11, 2012 at 8 P.M. in Room 206 of Town Hall.

Mr. Conze then read the following agenda item:

**Land Filling & Regrading Application #286, Bonnet Hill Farm, LLC, 68 Stephen Mather Road.** Proposing to construct additions and alterations to the existing residence; modify the driveway; modify the pool and pool terrace; and associated landscaping and grading alterations and drainage improvements; and perform related site development activities. The subject property is located on the southeast corner formed by the intersection of Stephen Mather Road and Pilgrim Road, and is shown on Assessor's Map #1 as Lot #18, in the R-2 Zone.

Mr. Conze said that this item will be opened tonight and immediately continued to December 11, 2012 at 8 P.M. in Room 206 of Town Hall.

Mr. Conze then read the first General Meeting agenda item:

**GENERAL MEETING**

**Amendment of Business Site Plan #171-C/Special Permit, 1063 Boston Post Road, CBD Zone.**  
Request for a new tenant for a portion of the second floor.

Mr. Ginsberg summarized the November 27, 2012 letter from Dwight Collins of Collins Enterprises, which requested a new second floor tenant in a portion of the second floor formally occupied by a real estate company. This building now has Panera Bread as its first floor tenant. Mr. Voigt had a question about the maximum number of customers and staff present at any one time, noting that on the floor plans, a nine person classroom is shown. Mr. Hutchison appreciated the fact that the proposed tutoring use is generally an off-hours use, which will reduce the peak usage which is now generally lunch time. Mr. Spain said that the Fire Marshal might have some limitations but that can be worked out as part of the Zoning and Building Permit application for tenant fit-up. Mr. Hutchison then made a motion to approve the proposed use as put forth by

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 7 OF 8

Collins Enterprises. That motion was seconded by Mr. Cunningham, and was approved by a vote of 6-0.

Mr. Conze then read the following agenda item:

**Discussion, deliberation, and possible decision on any closed public hearing items.**

Commission members briefly discussed the **Hamlen, 7 Davis Lane** application, which was closed earlier this evening. They noted that the shed meets all the Flood Damage Prevention requirements and can be approved with no conditions. Mr. Hutchison made a motion to approve the project as proposed. That motion was seconded by Mr. Cunningham, and approved by a vote of 5-0, with Ms. Cameron abstaining since she was not present at the Public Hearing, and had recused herself on this matter.

**Business Site Plan #86-D/Special Permit, Bob Bantle, 365 Boston Post Road.** Mr. Ginsberg was instructed to draft a resolution for consideration at the Commission's Special December 11, 2012 meeting. Mr. Conze was interested in receiving copies of the Phase I and Phase II studies, which were authorized by Mr. Bantle and completed.

At about 9:20 P.M., Mr. Conze then read the following agenda item:

**Amendment of Special Permit #42-H/Site Plan, Parklands Office Park, LLC, 3 Parklands Drive.**

Request for reconsideration of Stipulation G--to move the dumpster enclosure.

Attorney Wilder Gleason was present on behalf of the applicants. He stated that the air conditioner units have now been placed within the garage and are not outside the building envelope. He confirmed that the patio has been properly permitted through the Zoning and Building Departments. The landscaping was done as required, and their as-built survey required by the Planning & Zoning Commission is scheduled to be completed by December 5, 2012. Mr. Gleason mentioned that he is here this evening for reconsideration of Stipulation G, to move the dumpster enclosure from the area previously approved by the Commission. He noted that the proposed Dumpster will be enclosed and screened and locked when not in use. They are looking to have once a week pick up. By moving the Dumpster closer to Building 2, the Friends of Sellecks Woods can use it on an occasional basis. They want two Dumpsters next to this Building 2, which will be satisfactory in size for both Building 1 and Building 2. Mr. Voigt then made a motion to approve the request as specifically put forth by Mr. Gleason. That motion was seconded by Mr. Cunningham, and approved by a vote of 5-0. Mr. Hutchison abstained on this matter, as he had abstained on the original Parklands application.

Mr. Conze read the following agenda item:

**Approval of Minutes**

*November 13, 2012 General Meeting/Public Hearing*

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
NOVEMBER 27, 2012  
PAGE 8 OF 8

Ms. Cameron had a small change on sentence on page 36 of the minutes. Mr. Cunningham made a motion to approve the minutes as amended by Ms. Cameron. That motion was seconded by Mr. Voigt and approved by a vote of 5-0, with Mr. Spain abstaining since he was not at that meeting.

Mr. Spain then made a motion to go into "Any Other Business". That motion was seconded by Mr. Cunningham and unanimously approved.

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

Mr. Ginsberg mentioned that the first "Other Business" item is the adoption of the Aquifer Protection Agency 2013 calendar. Mr. Ginsberg noted that a minor error was made on the original calendar which was approved by the Commission recently. The Aquifer Protection Agency is only scheduled to meet twice in 2013, and he is asking the Commission to change those two dates. Mr. Voigt made a motion to approve the modified calendar, which was seconded by Mr. Cunningham and approved by a vote of 6-0.

Mr. Conze noted that Reese Hutchison is resigning from the Commission effective later this week. He thanked Mr. Hutchison for his service to the community and his terms on both the Environmental Protection Commission and Planning & Zoning Commission. Mr. Conze said that at the December 11, 2012 Special Meeting, the Commission will spend the first portion of the meeting to interview any candidates to replace Mr. Hutchison. He asked that any interested parties submit their background resume and related experience to Mr. Ginsberg by Wednesday afternoon, December 5, 2012, so he can circulate it on to Commission members for their consideration. Mr. Conze noted that because this meeting tonight is not being filmed by Channel 79, he asked Mr. Ginsberg to get word out to the local media through a press release.

Mr. Hutchison said that on a draft agenda for this evening's meeting, the Commission was to discuss the potential for Zoning Regulation amendments. He was concerned about the possibility of rebuilt houses in the Flood Zone and whether the Commission should grant a little leeway through a Zoning Regulation change to allow those houses elevated within the Flood Zone to extend beyond the normal 30 foot height maximum. After a brief discussion, it was agreed to see what applications come through over the next month or two, especially those in Noroton Bay. Mr. Conze believed that it may be premature to just change the Regulations, but was willing to see what happens over the next month or two.

There being no other business, the meeting was then adjourned at 9:37 p.m.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director