

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
February 2, 2010**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Riccardo, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

PUBLIC HEARING

Chairman Conze called the meeting to order at 8:00 PM and read the first agenda item, and noted that it had been postponed:

Land Filling & Regrading Application #236, Philip & Lorraine Weyhe, 42 Stanton Road.

Proposing to fill and regrade south of the existing residence and to perform related site activities. The subject property is located on the east side of Stanton Road, at the northwest corner formed by its intersection with Gardiner Street and is shown on Assessor's Map #46 as Lot #68, in the R-1/2 Zone. *POSTPONED TO FEBRUARY 23, 2010.*

Mr. Conze then read the next agenda item:

Coastal Site Plan Review #239-A, Flood Damage Prevention Application #264-A, Kevin & Jennifer Fay, 22 Beach Drive.

Proposing to construct a replacement patio at a different grade and to perform related site development activities within regulated areas. The subject property is located on the west side of Beach Drive approximately 1,000 feet south of its intersection with Boston Post Road and is shown on Assessor's Map #53 as Lot #11, in the R-1/2 Zone.

Mr. Kevin Fay, the property owner, explained that the proposed patio is a replacement of an existing patio and a slight expansion. The existing patio is about 400 square feet and the proposed patio would be about 625 square feet. As part of a prior application for this property, drainage was installed in the back yard to accommodate the increased size of the residence. Leaders from the roof are now directed to the Cultec units in the backyard. Water that falls into the lawn around the existing patio and from the existing patio drains onto the surface of the ground toward the backyard and toward the neighbor to the south, Mrs. Long. The new patio will be designed to drain to the Cultec units. Mr. Fay explained that he calculated the old roof area to be about 800 square feet directed into the ground, so that there is less surface runoff now than there was before the house was expanded a few years ago. Mr. Fay added that he is willing to tie the new patio onto the Cultec system if the Commission requires him to. However, he does not have a report from an engineer to affirm its capacity. He does, however, believe that the Cultec system does have the capacity. He is not sure about any overflows from the current Cultec units.

Mr. Ginsberg confirmed that the Fays did get approval to expand the house in 2008 and a letter from their engineer certifying that the drainage was installed properly was received thereafter. Six Cultec units were properly installed. Neither the existing patio nor the proposed larger patio were

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incorporated into the drainage plans at that time. Mr. Fay noted that the proposed patio would be about 15 feet from the side lot line at its closest point. Mr. Conze noted the need to have extra space available in the backyard to absorb the water and he mentioned that there is approximately 3800 square feet of rear lawn area. Mr. Ginsberg said that the professional engineer for the neighbor, Mrs. Long, suggested that the terrace be slightly pitched toward the center of the Fay backyard rather than toward the Long property to the south. Mr. Voigt explained that if the entire new patio is drained to the Cultec unit, then the Fays would need to account for all of that 625 square feet of patio area. Mr. Conze said the Fays need to check with their engineer regarding this issue. Mr. Spain mentioned the need to protect the neighbor and to get a solution which addresses the neighbor's concerns.

Mr. Ginsberg stated that two letters were received from Mrs. Long's engineer. The February 1st letter discusses the desire to have the pitch of the patio toward the center of the Fay property. The February 2nd letter was a request to lower the terrace and a desire to get a letter from the Fays' engineer certifying that this work will be done properly and the Cultecs have sufficient capacity. Mr. Ginsberg then read aloud the e-mail received from January 25th from the State of Connecticut DEP noting that they had no comment on the application. Mr. Conze noted that he would like to continue this public hearing to February 23rd to give the Fays sufficient time to have an engineer address the concerns brought up.

Mrs. Margro Long of 24 Beach Drive then spoke. She noted she lives to the south of the Fays' property and submitted photographs of the properties. She mentioned that Photograph 1 shows the terrace at the ground level before the construction project. Photograph 2 shows a current view with the new rock wall on the east side. Photograph 3 shows ponding on the western side of the Long property. Photograph 4 shows ponding with a documented amount of 6/10th of an inch of rain. Photograph 5 shows more ponding in January with ¼ inch of rain. Photographs 6 and 7 show the area with muddy water during a rain storm. Mrs. Long said that this ponding did not occur prior to the construction project. She added that the Fays got prior approval from the Zoning Board of Appeals (ZBA) to leave their oil tank in the basement. Mrs. Long said had there been any water ponding in her backyard at the time, she would have brought it up to the ZBA. Mr. Conze confirmed that the Fays need to have their engineer solve any drainage issues. Mrs. Long said that her concern is whether the drainage system in place is adequate for the existing roof and whether it is adequate for the proposed terrace. She confirmed that she hired a professional engineer who had sent in the February 1 and February 2 letters. In response to a question, Mrs. Long said that Photograph 7 shows the trampoline which is on the Fay property.

Mr. Fay responded that the lay of the land is such that the Fay property slopes toward the west and toward the Long property and he said that he will have an engineer devise a solution to these problems. Mr. Spain noted that ponding along the fence line now occurs and asked that Mr. Fay have his engineer analyze whether a patio will make it worse and/or how to solve the problem. The Commission members then unanimously agreed to continue the public hearing on February 23rd at 8:00 P.M. in Room 119 of Town Hall.

Mr. Conze then read the next agenda item:

Land Filling & Regrading Application #235, Jim Reilly, 54 Stanton Road. Proposing to fill and regrade behind the proposed residence and construct an associated retaining wall and to perform related site activities. The subject property is located on the east side of Stanton Road approximately

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700 feet north of its intersection with Gardiner Street and is shown on Assessor's Map #46 as Lot #65, in the R-1/2 Zone.

Mr. Reilly said that he is currently in the process of building a replacement house at 54 Stanton Road. He mentioned that the backyard now slopes down to Gardiner Street and he proposes to create a flat backyard behind the house with a 4 to 5 foot retaining wall behind it. Mr. Reilly noted that his Professional Engineer designed the drainage plan and then submitted to the Commission the third revision to the drainage plan to satisfy the Town Engineer.

Mr. Spain asked whether a permit was granted for the new house construction. Mr. Ginsberg noted that the house has the proper permits and that the proposed work is more than 25 feet from the house and, because of that, requires a Land Filling and Regrading Permit under Section 850 of the Regulations. Mr. Conze asked about the footing drain which is shown to go under the wall. Mr. Reilly confirmed that it will go to a splash pad and then into the woods. The Commission members then reviewed the revised plan and the revised cross section submitted by Mr. Reilly.

Mrs. Patricia Parlette of 54 Gardiner Street then spoke, noting that there were now no water problems on the site. There being no further questions or comments from the Commission members or the general public, Mr. Spain made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and unanimously approved.

At about 8:50 P.M., Mr. Conze then opened the General Meeting and read aloud the first agenda item:

GENERAL MEETING

Amendment of Business Site Plan #240 (3), Elite Training Concepts, 97 Noroton Avenue, NB Zone. Request to establish a personal fitness business in the space formerly occupied by a dry cleaner.

Mr. Ginsberg explained that per a recent email request, the Commission is being asked to allow a personal fitness business in the space formerly occupied by a dry cleaner. He noted that this space has previously been approved for a confectionary store, however, the owner has decided not to proceed with those plans. Mr. Ginsberg explained that per the e-mail submitted by the proposed tenant, this will be for one-on-one personal training only and no classes will be held here. The hours of operation will be 7:00 A.M. to 7:00 P.M. and generally the clientele is local. Mr. Ginsberg said that he believed this is a good use for the site. Mr. Spain noted if there is a parking problem on-site, the tenant should have the employees park off-site. Mr. Ginsberg noted that particular care in scheduling should also be done to avoid any parking issues. Mr. Spain then made a motion to approve this new use for the site as detailed in the request and as discussed. That motion was seconded by Ms. Riccardo and unanimously approved.

Discussion, deliberation, and possible decision on the following closed public hearing items:

Mr. Spain then made a motion to waive the reading of the draft Resolutions that the Commission has had since Friday and has had ample opportunity to read them. Ms. Riccardo seconded that motion which was unanimously approved.

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Coastal Site Plan Review #246, Flood Damage Prevention Application #91-A, Andrew & Katrina Firlik, 124 Pear Tree Point Road. Proposing to relocate the existing driveway to the south and add a second curb cut with a parking court in front of the house and perform related site development activities within regulated areas. *DECISION DEADLINE: MARCH 18, 2010.*

Mr. Ginsberg noted that a revised draft Resolution had been submitted for the Commission. This revised draft Resolution addresses the concerns the Commission had at the last meeting regarding plantings. Mr. Ginsberg also noted that the draft Resolution includes wording specifically noting that the submitted plans included an oil and stone driveway rather than asphalt. The oil and stone would give it more of an “earthy” color rather than the black asphalt. Mr. Voigt said that it is his belief this should be considered more of an additional drive rather than a relocation of the driveway. He had comments on Findings #1 and #10 and Conditions A and H.

Mr. Spain made a motion to adopt the draft Resolution with the amendments proposed by Mr. Voigt. That motion was seconded by Ms. Riccardo and approved by a vote of 3 to 1 with Mr. Voigt voting against. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2010**

Application Number: Coastal Site Plan Review #246
Flood Damage Prevention Application #91-A

Street Address: 124 Pear Tree Point Road
Assessor's Map #60 Lot #35 & #36

Name and Address of Applicant &
Property Owner: Andrew & Katrina Firlik
124 Pear Tree Point Road
Darien, CT 06820

Name and Address of
Applicant's Representative
At the public hearing: Doug Divesta
DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Activity Being Applied For: Proposing to relocate the existing driveway to the south and add a second curb cut with a parking court in front of the house and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Pear Tree Point Road approximately 250 feet south of its intersection with Crane Road.

Zone: R-1

Date of Public Hearing: January 12, 2010

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

Publication of Hearing Notices

Dates: December 31, 2009 and January 7, 2010 Newspaper: Darien News-Review

Date of Action: February 2, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

February 11, 2010

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 410, 810 and 820 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 plan, 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 add to/enlarge the existing driveway to the north and add a second curb cut with a parking court in front of the house and perform related site development activities within regulated areas. The existing residence is served by public water and sewer. The applicant's representative noted at the public hearing that the subject property is within 100 feet of Mean High Water and is partially within the flood hazard zone. No new structures are being placed on the subject property as part of this application.
2. As required by Section 880 of the Zoning Regulations, the applicant has proposed a plan showing stormwater management for the subject property. An associated Site Engineering Report by DiVesta Civil Engineering Associates, Inc. was submitted for the record in this matter.
3. The Commission notes the need for the applicant to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.
4. An e-mail was received from the State of Connecticut DEP dated January 8, 2010 regarding this application. That e-mail noted that they "...have no comments at this time..." on the application.

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5. In the “Environmental Evaluation of a Tidal Wetland located across the street from 124 Pear Tree Point Road” submitted by the applicant, land use consultant Aleksandra Moch recommends that “...at least two new trees or four shrubs be planted at the site to mitigate for the tree loss.” At the public hearing, the applicant’s representative confirmed that replacement trees and/or shrubs can be installed. The Commission finds that tree replacement will assist in minimizing the visual impact of the increased impervious surface on the property.
6. The submitted plans show an oil and stone top coating asphalt for the driveway and associated parking court. The Commission finds that this oil and stone top coating will assist in minimizing the visual impact of the asphalt to be placed in the driveway and associated parking court.
7. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.
8. 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.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would minimize any adverse impacts by the proposed activity on coastal resources.
11. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #246 and Flood Damage Prevention Application #91-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Addition of and enlargement of the driveway, installation of a parking court, installation of drainage facilities, and related activity shall be in accordance with the following plans:
 - Firlik Residence 124 Pear Tree Point Road, Proposed Relocated Driveway Plan, scale 1”=20’, by DiVesta Civil Engineering Associates, Inc., last revised 11/9/09.
- B. The Commission hereby requires that the following be planted at the site to mitigate for the 36” maple and 10” birch which are proposed to be removed as part of this project:
 - 1) Two Queen Elizabeth Maple trees, each with a 2.5’-3’ trunk diameter, one to be placed in front of the flagstone patio, and one to be placed on the other corner of the house in front of the garage;

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- 2) One Japanese dogwood, 7'-8' tall to be placed generally where the soil stockpile is shown on the submitted plan near the northern driveway entrance;
- 3) One row of wintergreen boxwood 5 gal. (30" at maturity) in front of the proposed parking court with one Howard Holly 2-3' high at each end.

Those plantings shall be shown on a revised plan, and photographs of them submitted to the Planning & Zoning Department once planted. It is the property owners' responsibility to maintain those required plantings once installed.

- C. Before the any work commences, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. The actual plan shall be filed in the Planning & Zoning Department and/or in the Land Records. The drainage maintenance plan shall require the property owner and all subsequent property owners of 124 Pear Tree Point Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well.
- D. During construction, the applicant shall utilize sediment and erosion controls as shown on the Grading and Drainage Plan and 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 driveway work and stormwater management installation is complete and prior to use of the new driveway, the applicant shall submit a certification from the project engineer that all site grading and installation of the proposed drainage facilities have been properly completed in accordance with the approved plans.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant and applicant's representative. 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 agency. This includes, but is not limited to, a Street Opening Permit from the Darien Public Works Department for the two new curb cuts onto Pear Tree Point Road and the elimination of the existing curb cut.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 1, 2011). This may be extended as per Sections 815 and 829f.

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All provisions and details of the application, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon the signing of the approved plan by the Chairman. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records, and revised plans showing the required plantings shall be submitted for review and action by the Planning and Zoning Director within 60 days of this action and prior to the start of the work on the new driveway, or this approval shall become null and void.

Mr. Conze then read aloud the next agenda item:

Coastal Site Plan Review #194-A, Flood Damage Prevention Application #6-B, Robert & Debi Lee, 8 North Road. Proposing to install a dock and to perform related site activities within regulated areas. *DECISION DEADLINE: APRIL 1, 2010.*

Commission members reviewed the draft Resolution. Mr. Voigt made a motion to adopt the Resolution as written. That motion was seconded by Mr. Spain and approved by a vote of 4 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2010**

Application Number: Coastal Site Plan Review #194-A
Flood Damage Prevention Application #6-B

Street Address: 8 North Road
Assessor's Map #67 Lot #74

Name and Address of Property Owner: Robert & Debi Lee
And Applicant: 8 North Road
Darien, CT 06820

Name and Address of Applicant's Representative: Jeffrey McDougal
At Public Hearing: William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to install a dock and to perform related site activities within regulated areas.

Property Location: The subject property is located on the east side of North Road approximately 200 feet north of its intersection with Butler's Island Road.

Zone: R-1 Zone

Date of Public Hearing: January 26, 2010

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

Publication of Hearing Notices

Dates: January 14 & 21, 2010

Newspaper: Darien News-Review

Date of Action: February 2, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 11, 2010

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the 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 owner proposes to install a dock and to perform related site activities within regulated areas. The submitted plans show a 4' x 15' pier, a 3.5' x 26' ramp and a 7' x 14' float with float stops.
2. The applicant's representative noted at the public hearing that a steel beam dock will be installed to better withstand flood forces.
3. This proposed dock received approval from the State of Connecticut Department of Environmental Protection (DEP) in Permit #200800269-KF. A *de minimus* change to the original approval was also approved by DEP in May 2009. The State of CT DEP sent an e-mail dated January 22, 2010, noting that they "...have no additional comments on the proposal."
4. Because this property is within 500 feet of Norwalk, the application was referred to the Southwestern Regional Planning Agency (SWRPA) for comment. Comments received from SWRPA on January 4, 2010 note that "...the dock appears to produce no inter-municipal impacts."
5. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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6. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
9. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #194-A and Flood Damage Prevention Application #6-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Existing and Proposed Conditions Map #8 North Road prepared for Robert Lee Debra W. Lee, by William W. Seymour & Associates, dated December 12, 2007 and last revised May 3, 2009.
 - Proposed Cross Section Map #8 North Road prepared for Robert Lee Debra W. Lee, by William W. Seymour & Associates, dated December 12, 2007 and last revised May 3, 2009.
- B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
- C. 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. Prior to the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.
- D. Prior to October 1, 2011, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in

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accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.

- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 2, 2011). This may be extended as per Section 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Coastal Site Plan Review #208-A, Flood Damage Prevention Application #224-A, 35 Pear Tree Point, LLC, 35 Pear Tree Point Road. Proposing to repair a stone seawall, construct a concrete landing, ramp, and timber floating dock, and to perform related site activities within regulated areas.

Commission members briefly reviewed the draft Resolution. Mr. Voigt made a motion to adopt the Resolution as written. That motion was seconded by Mr. Spain and was approved by a vote of 4 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2010**

Application Number: Coastal Site Plan Review #208-A
Flood Damage Prevention Application #224-A

Street Address: 35 Pear Tree Point Road
Assessor's Map #60 Lot #55

Name and Address of Property Owner: 35 Pear Tree Point, LLC
And Applicant: 5002 SW 86th Street
Miami, FL 33141

Name and Address of Applicant's Representative: Amy Zabetakis, Esq.
Rucci Burnham Carta & Carello, LLP
30 Old King's Highway South
Darien, CT 06820

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Activity Being Applied For: Proposing to repair a stone seawall, construct a concrete landing, ramp, and timber floating dock, and to perform related site activities within regulated areas.

Property Location: The subject property is located on the west side of Pear Tree Point Road approximately 450 feet south of its northernmost intersection with Long Neck Point Road.

Zone: R-1 Zone

Date of Public Hearing: January 26, 2010

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

Publication of Hearing Notices

Dates: January 14 & 21, 2010

Newspaper: Darien News-Review

Date of Action: February 2, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 11, 2010

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the 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 owner proposes to repair a stone seawall, construct a concrete landing, ramp, and timber floating dock, and to perform related site activities within regulated areas. As shown on the submitted plans, an existing timber float and pier will be removed as part of this application. The proposed work which is above Mean High Water is the proposed 4' x 4' concrete pad, half of which is located atop the existing stone wall.
2. As noted at the public hearing, the applicant received approval from the State of Connecticut Department of Environmental Protection (DEP) in Permit #200802185-KF to retain/repair a stone seawall, remove derelict structures, and install a landing, ramp, and floating dock.

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3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
5. 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.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #208-A and Flood Damage Prevention Application #224-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Zoning Location Survey 35 Pear Tree Point Road prepared for Number 35 Pear Tree LLC, by William W. Seymour & Associates, scale 1"=20', dated December 7, 2009.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 8/15/08 and last revised 10/6/08, Sheet 2 of 7.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 8/15/08 and last revised 3/3/09, Sheet 4 of 7.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 8/15/08 and last revised 10/6/08, Sheet 5 of 7.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 3/3/09, Sheet 5A of 7.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 8/15/08, Sheet 6 of 7.
 - Ferrero Residence Installation of Pier, Ramp & Float Goodwives River, by Roberge Associates Coastal Engineers, LLC, dated 8/15/08, Sheet 7 of 7.
- B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
- C. 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

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Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. Prior to the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.

- D. Prior to October 1, 2011, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 2, 2011). This may be extended as per Section 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Coastal Site Plan Review #247, Land Filling & Regrading Application #232, Rita Marber, 14 Crane Road. Proposing to fill, excavate and regrade for construction of a pool and landscaped area and to perform related site activities within a regulated area.

Mr. Spain made a motion to adopt the Resolution as written. Mr. Voigt seconded that motion which was approved by a vote of 4 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
FEBRUARY 2, 2010**

Application Number: Coastal Site Plan Review #247
Land Filling & Regrading Application #232

Street Address: 14 Crane Road
Assessor's Map #60 Lot #28

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Name and Address of Property Owner: Rita Marber
And Applicant: 60 Sammis Street
Norwalk, CT 06830

Name and Address of Applicant's Representative: Doug Divesta, PE
DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Activity Being Applied For: Proposing to fill, excavate and regrade for construction of a pool and landscaped area and to perform related site activities within a regulated area.

Property Location: The subject property is located on the east side of Crane Road approximately 900 feet south and east of its intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: January 26, 2010

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

Publication of Hearing Notices
Dates: January 14 & 21, 2010 Newspaper: Darien News-Review

Date of Action: February 2, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
February 11, 2010

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The request is to fill, excavate and regrade for construction of a pool and landscaped area and to perform related site activities within a regulated area. The request also includes filling and

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regrading for a gravel parking court on the southwest corner of the property near Crane Road. It was noted during the public hearing that there is now a dwelling under construction on the subject property. That dwelling is replacing a single-family residence formerly on the property. The dwelling now under construction will be served by public water and sewer. The applicant's representative also noted at the hearing that there are no inland or tidal wetlands on the subject property and no part of the property is within the Flood Hazard Zone.

2. The Proposed Site Plan shows a row of large boulders with plantings in between to stabilize the slope in that area to the east of the proposed pool.
3. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail dated January 26, 2010 stating that they "...have no comment."
4. The Commission notes with respect to the drainage system around the house, the need for the applicant or property owner to file a document outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
8. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #247 and Land Filling and Regrading Application #232 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the pool and associated regrading shall be in accordance with the plans entitled:
 - Marber Residence Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., dated 10/20/08 and last revised 12/04/09, Sheet 1 of 2.

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- Marber Residence Details, by DiVesta Civil Engineering Associates, Inc., dated 12/07/09 and last revised 12/04/09, Sheet 2 of 2.
- B. 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.
- C. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- D. To minimize the likelihood of erosion, the Commission hereby requires additional plantings in and around the boulders on the sloped area in the back yard. A revised planting plan shall be submitted for review and action by the Planning & Zoning Director prior to or concurrently with the application for a Zoning or Building Permit for the pool.
- E. By April 5, 2010 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed new replacement residence and prior to the start of any filling or regrading work around the house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 14 Crane Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- F. A final “as-built” survey is hereby required to certify that all of the regrading and other site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work, including the proposed pool, grading, and drainage work have been properly completed.
- G. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- H. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

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Applicant's Representative: DiVesta Civil Engineering Assoc.
51 Painter Ridge Road
Roxbury, CT 06783

Activity Being Applied For: Proposing to repair the existing failing septic system by installing a new septic tank, pump chamber, and leaching fields, and perform related site activities within a regulated area.

Property Location: The subject property is located on the west side of Contentment Island Road approximately 1,100 feet south of its intersection with Shennamere Road.

Zone: R-1 Zone

Date of Public Hearing: January 26, 2010

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

Publication of Hearing Notices

Dates: January 14 & 21, 2010

Newspaper: Darien News-Review

Date of Action: February 2, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

February 11, 2010

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400 and 810 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application is to repair the existing failing septic system by installing a new septic tank, pump chamber, and leaching fields, and perform related site activities within a regulated area. The property owner will not be using the old leaching field--a new leaching field will be installed near the existing tennis court.

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2. The State of Connecticut Department of Environmental Protection (DEP) Office of Long Island Sound Programs sent an e-mail dated January 22, 2010, noting that they "...have no comment" on the subject application.
3. At the public hearing, the applicant's representative noted that this new septic system has been reviewed and approved by the Darien Health Department.
4. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
5. The proposed activities' potential adverse impacts on coastal resources, as modified within this resolution, are acceptable.
6. The proposed activities, as modified within this resolution, are consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #248 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the replacement septic system shall be in accordance with the plans submitted to and reviewed by the Commission, entitled:
 - Connor Residence Proposed On-Site Subsurface Sewage Disposal System Repair, by DiVesta Civil Engineering Associates, Inc., scale 1"=30', dated 11/02/09, Sheet No. 1 of 2.
 - Connor Residence Details, by DiVesta Civil Engineering Associates, Inc., scale as noted, dated 11/02/09, Sheet No. 2 of 2.
- B. During the implementation of this project, 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.
- C. Upon completion of the work, and no later than February 1, 2011, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans. This shall include written certification for the project's professional engineer that the septic system has been installed according to the approved plan.
- D. 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,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. Approval from the Darien Health Department has been obtained for this work—a Septic System Repair Permit is now needed from that Department.
- F. This permit shall be subject to the provisions of Section 815 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 1, 2011). This may be extended as per Section 815.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Conze read the next agenda item:

Land Filling & Regrading Application #233, Daniel & Margaret Smith, 147 Long Neck Point Road. Proposing to construct a retaining wall with associated excavation, filling and regrading along the northern property line for a modified driveway and to perform related site activities.

Ms. Riccardo made a motion to adopt the Resolution as written. Mr. Spain seconded that motion, which was then approved by a vote of 4 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2010**

Application Number: Land Filling & Regrading Application #233

Street Address: 147 Long Neck Point Road
Assessor's Map #59 Lot #10

Name and Address of
Property Owners: Daniel & Margaret Smith
147 Long Neck Point Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Kasia Kudrzycka
Brooks and Falotico
199 Elm Street
New Canaan, CT 06840

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Activity Being Applied For: Proposing to construct a retaining wall with associated excavation, filling and regrading along the northern property line for a modified driveway and to perform related site activities.

Property Location: The subject property is located on the east side of Long Neck Point Road approximately 100 feet north of its southernmost intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: January 26, 2010

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

Publication of Hearing Notices

Dates: January 14 & 21, 2010

Newspaper: Darien News-Review

Date of Action: February 2, 2010

Action: APPROVED WITH
CONDITIONS

Scheduled Date of Publication of Action:

February 11, 2010

Newspaper: Darien News-Review

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

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

1. The subject application is construct a retaining wall with associated excavation, filling and regrading along the northern property line for a modified driveway and to perform related site activities. An existing detached garage will be removed, and a new garage constructed as part of an addition to the existing residence. Some existing overhead utility wires will be placed underground as part of this project.
2. As part of this application, the property owner is abandoning the existing septic system and tying into the municipal sanitary sewer system available in Long Neck Point Road.

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3. To accommodate runoff, the submitted Site Development Plan shows three proposed concrete drywells in the back yard. The Commission notes with respect to the drainage system around the house, the need for the applicant or property owner to file a document outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
4. The 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.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #233 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Zoning Location Survey depicting proposed conditions at #147 Long Neck Point Road prepared for Daniel H. Smith Margaret Smith, by William W. Seymour & Associates, dated July 20, 2009 and last revised December 7, 2009.
 - Site Development Plan prepared for Daniel and Margaret Smith 147 Long Neck Point Road, by McChord Engineering Associates, Inc., dated September 16, 2009 and last revised 12-17-09, Drawing No. SE1.
 - Smith Residence 147 Long Neck Point Road by Brooks & Falotico Associates, Inc., 3 sheets.
- B. By April 3, 2010 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 147 Long Neck Point Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- C. During the regrading and site work, the developer/builder shall utilize the sediment and erosion controls illustrated on the Site Development Plan referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion

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controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. The developer/builder shall install the drainage system as shown on the submitted plans in Condition A, above. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- E. A final "as-built" survey is hereby required to certify that all of the regrading and other site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work, including the proposed pool, grading, and drainage work have been properly completed.
- F. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- G. 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.
- H. The granting of this approval does not relieve the developer/builder of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to approval from the Darien Health Department for abandonment of the existing septic system and approval from the Darien Public Works Department for connection to the Town sanitary sewer system.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (February 1, 2011). 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 by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Mr. Conze read the next agenda item:

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

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

1. The subject application is to fill, excavate, and regrade; construct associated retaining walls for construction of front porch, new walkway, and relocated driveway; and to perform related site activities.
2. The EPC reviewed this application, and approved it as part of EPC #41-2009 on December 2, 2009. That decision is hereby incorporated by reference.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. 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 Land Filling and Regrading Application #234 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Layout Plan Wise Residence, by Robert Sherwood Landscape Architect, LLC, last revised 12-04-09, Drawing No. LP-1.
 - Grading Plan Wise Residence by Robert Sherwood Landscape Architect, LLC, last revised 12-04-09, Drawing No. GP-2.
- B. Upon completion of all of the work shown on the plans, and by no later than February 1, 2011, the applicant shall provide written verification and photographs documenting the completion of the project, including the grading and the drainage work, in compliance with the approved plans.

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- C. During the regrading and site work, the developer/builder shall utilize the sediment and erosion controls illustrated on the Layout Plan and Grading Plan referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. 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.
- E. The granting of this approval does not relieve the developer/builder of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (February 1, 2011). 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 by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Discussion and deliberation only on any public hearings closed on February 2, 2010.

Land Filling & Regrading Application #235, Jim Reilly, 54 Stanton Road. Proposing to fill and regrade behind the proposed residence and construct an associated retaining wall and to perform related site activities.

Mr. Conze believed that the application was fairly straightforward and noted the desire to have landscaping to help minimize the impact of the 4 to 5 foot high retaining wall. He asked that Mr. Ginsberg prepare a draft Resolution for the Commission's consideration sometime in late February or early March.

Approval of Minutes

January 12, 2010 Public Hearing/General Meeting

Mr. Spain said that he had reviewed the draft minutes and had a number of typographical comments. Those comments were distributed to P&Z members. After taking a moment to review those comments, Mr. Voigt made a motion to approve the minutes as amended with Mr. Spain's comments. That motion was seconded by Ms. Riccardo and was approved by a vote of 4 to 0.

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Mr. Spain again noted that he had some minor comments on the January 26th minutes. Those comments were passed around to Commission members who took a few moments to review them. Mr. Spain then made a motion to approve the January 26, 2010 minutes, as amended. That motion was seconded by Ms. Riccardo and unanimously approved.

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

Mr. Keating said he had two items he wanted to bring to the Commission's attention under "Other Business". On a motion by Mr. Spain, seconded by Ms. Riccardo, the Commission voted unanimously to go into Other Business to discuss those two items.

First, Mr. Keating explained that in the building formerly occupied by Fairbanks Photo on Boston Post Road, the property owner has asked that a new candy store be allowed to occupy that space. Mr. Keating has approved that use, as this is a retail use which is permitted under the Regulations for the CBD Zone. The tenant will be taking a portion of the space formerly occupied by Fairbanks Photo, as Fairbanks has moved into the adjacent space next door.

As for the second item, Mr. Keating noted that Lanphier Day Spa within Goodwives Shopping Center at 25 Old King's Highway North received approval from the Planning & Zoning Commission last year to expand out the back of the building. Unfortunately, as construction was proceeding, it became apparent that some work was being done contrary to the approved plans. Mr. Keating mentioned to the Commission that he has required the contractor to stop all work until revised plans are submitted which properly match up with what the tenant wishes to build. He said that staff will be working directly with the Fire Marshal, the Building Official and the Health Department within the next week or two to resolve this matter.

There being no further business, the meeting was then adjourned at 9:15 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning