

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
June 22, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Spain, Cameron, Hutchison, Riccardo

STAFF ATTENDING: Ginsberg
RECORDER: Syat
FILMED BY: Channel 79

PUBLIC HEARING

Vice-Chairman Spain noted that the first three public hearing items had been postponed. He read the first of these agenda items:

Coastal Site Plan Review #214-A, Flood Damage Prevention Application #230-A, Melanie Branca, 8 Waverly Road. Proposing to raze the existing residence and to construct a new single-family residence, and to perform related site development activities within regulated areas. The subject property is located on the west side of Waverly Road, approximately 200 feet north of its intersection with Baywater Drive, and is shown on Assessor's Map #55 as Lots #16 & 17 in the R-NBD Zone. *POSTPONED.*

Mr. Ginsberg noted that this application will likely be heard on July 27th.

Mr. Spain then read the next agenda item:

Flood Damage Prevention Application #286, Mark & Susan Luecke, 47 Echo Drive North. Proposing to construct a new detached garage with associated driveway; construct additions and alterations to the existing residence including a new patio; fill and regrade adjacent to the residence; and to perform related site development activities within a regulated area. The subject property is located on the north side of Echo Drive North directly across from its intersection with Alpine Lane, and is shown on Assessor's Map #30 as Lot #66, and is in the R-1/3 Zone. *POSTPONED.*

Mr. Ginsberg mentioned that this application will also likely be heard on July 27th.

Mr. Spain then read the next agenda item:

Land Filling & Regrading Application #243, Robert & Natalie MacDonald, 3 Lakeside Avenue. Proposing to fill and regrade and to install an associated curb along a portion of Lakeside Avenue and to perform related site activities. The subject property is located on the northwest corner formed by the intersection of West Avenue and Lakeside Avenue, and is shown on Assessor's Map #17 as Lot #102, and is in the R-1/5 Zone. *POSTPONED.*

Mr. Ginsberg said that this application will likely be heard on July 13th.

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Mr. Spain then read the next agenda item:

Business Site Plan #138-A/Special Permit, William Raveis Real Estate, 22 Old King's Highway South. Proposing to construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone. The subject property is located on the west side of Old King's Highway South, approximately 50 feet south of its intersection with Center Street, and is shown on Assessor's Map #72 as Lot #36, and is in the CBD (commercial) Zone.

Mr. Ginsberg explained that the proof of mailing had been submitted. Mr. Spain said that this item would be opened this evening, and immediately continued to July 27, 2010 at 8:00 p.m., in Town Hall. Mr. Hutchison mentioned that he will be recusing himself from this application, since he is in the real estate business.

Mr. Spain then read the next agenda item:

Special Permit Application #261, Robert LeBlanc, d/b/a Distinctive Dezigns 770 Boston Post Road. Proposal to establish a custom furniture showroom within a portion of the existing building. The subject property is located on the south side of Boston Post Road, approximately 50 feet northeast of its intersection with Sedgwick Avenue, and is shown on Assessor's Map #16 as Lot #106 in the DB-1 Zone.

Mr. Robert LeBlanc was present to describe the application request. He noted that he is hoping to open a furniture showroom at 770 Boston Post Road. He hopes to be open three to four days a week to have clientele look at pieces that he designs. He may also show furniture that has been restored. Mr. LeBlanc mentioned that there is an Allstate office in a portion of this building now, and most of their business is on the phone and through the Internet. Monday is their busiest day. He would not be open Monday in deference to Allstate. Mr. LeBlanc said that he also does in-home work and may also bring clients here to this site. He mentioned that he is the only employee. Mr. LeBlanc explained that the 1,200 square foot building at 770 Boston Post Road is split up and he would occupy the left hand side. In response to a question, Mr. LeBlanc said that there are approximately eight parking spaces on site and that he does not propose any exterior changes to the property, only the installation of a conforming sign for his business. Mr. Ginsberg said that he believes that this is a good low intensity use for this site. Ms. Riccardo explained that this is the site of the former Bohemia Chic business. There being no further comments or questions from Commission members or the general public, Mr. Hutchison made a motion to close the public hearing on this matter. That motion was seconded by Ms. Cameron, and was unanimously approved.

At about 8:10 P.M., Mr. Spain then read the next agenda item:

Land Filling & Regrading Application #244, Rafael & Megan Solis, 62 Stanton Road. Proposing to remove a portion of the existing driveway, fill and regrade, and expand the existing parking area, and to perform related site activities. The subject property is located on the north side of Stanton Road approximately 1,050 feet north of its intersection with Gardiner Street, and is shown on Assessor's Map #46 as Lot #63, and is in the R-1/2 Zone.

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Mr. David Verespy of Rock Spring Design Group was present on behalf of the Solis'. He noted that this is a minor reconfiguration of the existing loop driveway. They hope to create a widened area to keep a loop driveway even if there is a car parked within the loop. They expect to keep an existing oak and pine tree, but will lose one tree during the construction process. They also propose to construct a low retaining wall. He noted that the driveway is now gently sloping. Mr. Verespy explained that there is a net increase in impervious surface of approximately 275 square feet (the size of about 1½ parking spaces). They are requesting a waiver of the requirement for stormwater management and a drainage report. Mr. Verespy then showed how water now flows on the Solis property. In response to a question, he explained that although water flows from the front of the property to the back yard, there is no gully or channel in the lawn. There are now open joints within the Belgian block adjacent to the driveway. Mr. Ginsberg noted that in the Public Works comment, they explained that no street opening permit is required for this project as the two driveway curb cuts now exist on Stanton Road. There being no further questions or comments from Commission members or the general public, Ms. Cameron made a motion to close the public hearing on this matter. That motion was seconded by Mr. Hutchison and unanimously approved.

At about 8:15 P.M., Mr. Spain read the first general meeting agenda item.

GENERAL MEETING

Discussion, deliberation, and possible decisions regarding the following public hearing item:

Coastal Site Plan Review #255, Flood Damage Prevention Application #285, Hank & Johanna Hagey, 7 Tokeneke Trail. Proposing to construct additions and alterations to the existing single-family residence including a screen porch and at grade patio; install a swimming pool/spa; and to perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED: 5/25/2010. DECISION DEADLINE: 7/29/2010.*

Mr. Ginsberg distributed a revised draft Resolution with hand written annotation "Revised 6-21". Ms. Cameron made a motion to waive the reading of the draft Resolution aloud. That motion was seconded by Ms. Riccardo and approved by a vote of 4 to 0. Mr. Ginsberg explained that Ms. Hagey may be returning to the Commission with a possible future application for drainage improvements in her backyard. Mr. Hutchison then specifically referred to finding number 4 in the draft Resolution and its importance. Mr. Spain mentioned that it is important to note how drainage/storm water has been reviewed in each and every application and whether or not any requested waivers have been granted by the Planning and Zoning Commission for stormwater management. Ms. Cameron confirmed that the applicant is removing storage within the floodplain and they have a very unique situation on this property. Mr. Hutchison confirmed that the adjacent neighbors are not affected in this specific case. Ms. Riccardo made a motion to adopt the draft Resolution as amended within the revised draft distributed earlier this evening. That motion was seconded by Mr. Hutchison and approved by a vote of 4 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
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Application Number: Coastal Site Plan Review #255
Flood Damage Prevention Application #285

Street Address: 7 Tokeneke Trail
Assessor's Map #65 Lot #38

Name and Address of Property Owner & Applicant's Representative: Hank & Johanna Hagey
7 Tokeneke Trail
Darien, CT 06820

Activity Being Applied For: Proposing to construct additions and alterations to the existing single-family residence including a screen porch and at grade patio; install a swimming pool/spa; and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Tokeneke Trail approximately 600 feet south of its intersection with Old Farm Road.

Zone: R-1

Date of Public Hearing: May 25, 2010

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

Publication of Hearing Notices
Dates: May 13 & 20, 2010

Newspaper: Darien News-Review

Date of Action: June 22, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 2, 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, 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 and 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:

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1. The proposal is to construct additions and alterations to the existing single-family residence including a screen porch and at grade patio; install a swimming pool/spa; and to perform related site development activities within regulated areas. The application notes that there will be an increase of about 4,100+/- square feet of impervious surface, including building additions, driveway improvement, patio, and in-ground pool. The proposed additions include a third garage bay in the front of the house and an addition at the rear of the house. The proposed on-grade patio will be located adjacent to the house addition in the rear. The house is served by public water, so there is no on-site well. The applicants are working with the Health Department to verify that the proposed changes will not require any modifications to the septic system.
2. Although there are both inland and tidal wetlands on the subject property, no EPC permit was needed, since there is no work within 50 feet of wetlands.
3. The Connecticut Department of Environmental Protection (DEP) sent an e-mail dated May 13, 2010 indicating that they found no inconsistencies between the proposed plan and the coastal area management policies.
4. During the public hearing it was noted that the proposed swimming pool is located within the flood hazard area, and the pool and fill would occupy approximately 8,000 cubic feet of storage in the flood plain. This would result in an increase of flood height of 1.3 inches in the immediate area of the property. The applicant's engineer explained that the site is the lowest point in the neighborhood, so the change will not impact any of the adjacent properties.
5. At the May 25 public hearing, the Hageys' engineer, Steven Trinkaus, a professional engineer of Trinkaus Engineering, LLC, described the proposal. Mr. Trinkaus explained that providing detention of stormwater runoff is not a good idea because of the proximity of the site to the wetlands and Long Island Sound. It is, however, important to treat the quality of the water before it is discharged. Mr. Trinkaus noted that any increased surface runoff will continue to flow towards the lagoon and the wetlands, and not toward Tokeneke Trail. Mr. Trinkaus said they are asking for a waiver of the formal requirements of Section 880 of the Regulations with respect to storm water management. An adjacent neighbor, Mrs. Moore, hired her own engineer, Todd Ritchie of Stearns & Wheler GHD to review the submitted plans and comment upon them.
6. The applicant has discussed with staff the possibility of additional work on the site that would be within the jurisdiction of the Environmental Protection Commission. The application to EPC has not occurred yet and that work would be subject to future applications to EPC and/or the Planning and Zoning Commission.
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

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9. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
10. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.
11. 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.
12. 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 mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #255 and Flood Damage Prevention Application #285 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the following plan, as submitted to the Commission:
 - “Building Addition & Pool”, prepared for Harry & Johanna Hagey, 7 Tokeneke Trail, by Trinkaus Engineering, LLC, scale 1”=20’, dated March 30, 2010 and received April 9, 2010.
- B. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans listed in Condition A, above, 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.
- C. The Commission finds under Section 888a(1) of the Darien Zoning Regulations, the requirement for stormwater management is hereby waived due to the specific location of the 7 Tokeneke Trail property within the watershed and adjacent to the lagoon. The specific wording of that section reads as follows: “The Planning and Zoning Commission and/or the Environmental Protection Commission may waive one or more of the provisions in Section 880 *et. seq.* under any of the following circumstances: (1) Based upon the size and/or location of the subject property;... The applicant’s engineer, Steve Trinkaus, has adequately demonstrated why a waiver should be granted.
- D. Prior to the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer that all aspects of the construction, site regrading, re-vegetation of disturbed areas and utility installation have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.

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- E. A final “as-built” survey with elevation data is hereby required to certify that the regrading, site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that all of the work, including installation of the pool, has 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. 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, any required review and approval by the Darien Health Department.
- 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 (June 22, 2011). This may be extended as per Sections 815 and 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.

Mr. Spain then read the next agenda item:

Amendment of Business Site Plan#170-A/Special Permit, Planet Pizza, 878-882 Boston Post Road, CBD Zone.

Request for seasonal outdoor dining.

Mr. Ginsberg read aloud the June 21, 2010 one page letter from Richard H. Girouard, Sr. of Klein New England. It read as follows: “Planet Pizza wishes to withdraw its application for seasonal outdoor seating at this time”. Mr. Ginsberg said that they may return prior to next spring, once the restaurant is more established.

Mr. Spain then read the next agenda item:

Deliberation ONLY regarding any public hearing closed on June 22, 2010.

Mr. Spain noted that the two public hearings which were closed this evening were on 770 Post Road and for Solis on Stanton Road. Mr. Hutchison noted that both these applications look fine to him. Mr. Ginsberg noted that the staff will try to draft Resolutions for the Commission’s meeting on July 6th.

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

Mr. Hutchison made a motion to go into “Other Business” to discuss one item – a request regarding the implementation of the 40 Noroton Avenue subdivision. That motion was seconded by Ms. Cameron, and unanimously approved.

Mr. Ginsberg then read aloud portions of the letter dated June 18, 2010 from Reilly Builders and then passed around to P&Z members a highlighted “Site Screen Planting Plan” which was approved by the Commission as part of the subdivision approval for 40 Noroton Avenue. It was noted that Mr. Reilly, who is one of the builders of the two new houses, has had interaction with almost every neighbor adjacent to this project. Mr. Ginsberg explained that the perimeter landscaping around the property is almost complete – and they are now working on the Clock Avenue area plantings. Mr. Reilly said that the required Open Space juts out and restricts the soil stockpiling area. Mr. Reilly noted that they are requesting the stockpiling to occur for 4 to 6 weeks allowing them to complete the grading for the road (Eddy Lane). Ms. Cameron then asked whether they would be doing the plantings in August. Mr. Reilly confirmed that they would be doing the plantings in August, and they have already purchased them from a local nursery. Mr. Spain asked if the stockpiling will impact the neighbors. Mr. Reilly responded that there is now natural growth in this area (behind the Clock Avenue houses). Ms. Cameron asked how Mr. Reilly would be minimizing the dust on the stockpile. Mr. Reilly said that he expects to pacify any neighbor’s concerns about the stockpiling. Ms. Cameron suggested wetting down the stockpile or using a tarp over it. She also mentioned the need to install an anti-tracking pad near Noroton Avenue. Mr. Reilly confirmed that he will be installing an anti-tracking pad very soon, before this upcoming weekend. Mr. Hutchison then made a motion to allow stockpiling in the Open Space area until August 15th when the required plantings would then have to be installed. Ms. Cameron seconded that motion, which was approved by a vote of 4 to 0.

There being no other business, the meeting was then adjourned at 8:32 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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