

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
July 27, 2010**

Place: Auditorium, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79

PUBLIC HEARING

Chairman Conze called the meeting to order at 8:00 P.M. He noted that the downtown businesses and streets look great thanks in large part to the flower baskets that have been installed by the Beautification Commission. He then read the first agenda item:

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. *PUBLIC HEARING TO BE OPENED ON 7/27/2010 AND IMMEDIATELY CONTINUED TO 9/14/2010.*

The public hearing for this matter was opened. As per the discussion with the applicant's representative, the following motion was made: That the Commission recess the public hearing regarding this matter and continue it on September 14, 2010 in the Town Hall. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following 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. *PUBLIC HEARING TO BE OPENED ON 7/27/2010 AND IMMEDIATELY CONTINUED TO 9/14/2010.*

The following motion was made: Upon advice of the Director of Planning, after discussion with the representative of the applicant, the Planning & Zoning Commission has opened the public hearing and will recess the public hearing and continue it on September 14, 2010 at 8:00 P.M. in the Town Hall. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze then read the following agenda item:

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Coastal Site Plan Review #257, Flood Damage Prevention Application #289, Land Filling & Regrading Application #245, Dale & Hillary Miller, 5 Tokeneke Beach Drive. Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Beach Drive approximately 500 feet south of its intersection with Contentment Island Road, and is shown on Assessor's Map #67 as Lot #67, and is in the R-1 Zone. *PUBLIC HEARING TO BE OPENED ON 7/27/2010 AND IMMEDIATELY CONTINUED TO 9/7/2010.*

The Director of Planning had discussed this matter with the representative of the applicant and advised them that the public hearing would need to be continued. The following motion was made: That the Planning & Zoning Commission open and immediately recess the public hearing regarding this matter and continue the hearing on September 7, 2010 at 8:00 P.M. in the Town Hall. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following agenda item:

Special Permit Application #125-D/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

Guy Wisinski of 35 Scofield Farms Road represented the DJFL and explained that they have a continuing problem of providing a safe practice environment for the players during the latter portion of the Fall season, particularly after Daylight Savings Time has ended. In October, the sun sets earlier and the change in time means that it is dark while the young football players are practicing. The goal is to have three sets of temporary lights on Holahan Field (behind Town Hall) that will be used for Monday through Friday practices so that the football players will have a comparable amount of safe practice time in October and November to what they had in September. The lights are sufficient for practice. They will not be used for any games and will not be used on weekends. The lights would be used from October 11th through possibly as late as November 19th (depending on how the teams do in the playoffs).

Mr. Wisinski said that the Darien Junior Football League now involves approximately 550 players from throughout the community. The maximum height of the lights is 20 feet in order to comply with the Regulations for such recreational lighting. The temporary light fixtures are placed on the northerly and westerly portions of the field so that they point toward the field and Town Hall and point away from the neighbors. The practice lights are on from approximately 5:00 P.M. until 7:00 P.M. at the very latest. The Planning & Zoning Commission has allowed the temporary lights on an experimental basis during the 2009 season. The DJFL is not requesting a multi-year approval for the temporary lights to be installed. Mr. Wisinski said that they have worked with the neighboring property owners to reposition and redirect the lights to minimize any potential negative impact on the neighbors.

John Sini of the DJFL said that they have reviewed the stipulations of the previous approvals and they believe they have fulfilled all of those requirements and conditions. They did submit a detailed report

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to the Planning & Zoning Commission on January 29, 2010. That report had been prepared by Hygenix Environmental Consultants and thoroughly reviewed the use of the lights during the October and November 2009 time period. One of the issues that the DJFL has looked into is the possibility of hard wiring these temporary lights in order to avoid the use of three diesel-powered generators. Mr. Wisinski said that they have been working with Connecticut Light & Power about the possibility of hard wiring the lights from the St. John's Place electrical system or the Cherry Street electrical system. They could bury power cables through the Town property to the Town fields. At this point, no direct electrical connection is practical, but they will continue to look into possible solutions. This necessitates that they stick with the use of the diesel generators for the time being. John Sini said that if the Town Hall facility is expanded in the future, then it might be possible to pull electrical power from the Town Hall building. Planning & Zoning Commission members noted that as per their previous decisions, it does not seem practical or suitable to have permanent lights on the field.

Guy Wisinski explained that the DJFL has worked very hard to address any concerns expressed by the neighbors during last year's experimental use of the temporary lights. He said that one of the neighbors who has a 6 month old baby was pleasantly surprised that the noise was not a problem for her family. In general, everyone has been very pleased with all aspects of the experimental use of the lights for practices during weekdays.

Mr. Conze asked that the DJFL continue to look into the possibility of having direct electrical service to the lights in order to eliminate the generators. Mr. Wisinski and Mr. Sini agreed that they would continue to investigate this matter.

Mr. Spain questioned the hours of operation. He said he thought he read in the application materials that the lights would be off by 7:15 P.M., but he heard in the presentation that the lights would be off by 7:00 P.M. Mr. Sini clarified that the lights would be turned off by 7:00 P.M. Mr. Spain also said that at house on Cherry Street had been demolished recently because it was in the Flood Zone and the land now has a Deed Restriction that prevents further development. He said that someone should investigate whether the Deed Restriction would allow an underground power line to travel through the property from Cherry Street to the location of the lights and therefore eliminate the need for the diesel generators. Mr. Sini and Mr. Wisinski said that only one neighbor complained last year about the noise at Holahan Field and they tried to make adjustments at that time to address that concern. He said they will continue to research a direct connection from a CL&P Power pole to the temporary lights. Mr. Sini said that the use of the temporary lights started in October of 2009 immediately after the Planning & Zoning Commission gave the approval for the temporary use. Mr. Wisinski said the lights were not used until October 26th because in early October they were not necessary.

Mr. Voigt asked if it was possible for the noise created by the generators to be shielded or reflected away from the neighbors. Bob Brown, President of Hygenix, said that two alternatives exist to address the noise issue. They include increasing the distance from the generator to the neighbors or using a heavy panel shielding on the neighbors' side of the generators. Mr. Wisinski reviewed photographs of the conditions at the field with the lights on and with the lights off. He said that they will investigate the use of noise shielding to see if that might help minimize the noise that reaches the neighbors. Mr. Sini said that they will continue to work with the neighbors regarding all aspects of the temporary use of the lights.

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Callie Sullivan of 118 Five Mile River Road represented the Board of Selectmen and explained that the Board is in full support of the DJFL request for the temporary lights to provide safe practice time for the players. The Board recognizes that the Commission is trying to achieve the delicate balance between the privacy of the neighbors and the community use of the playfields. The temporary lights for practice, subject to conditions and restrictions, works as a “win” for everyone.

There were no other comments regarding the application. The following motion was made: That the Planning and Zoning Commission close the Public Hearing on the matter and will make a decision at a future meeting. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

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

Special Permit Application #188-D/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien Junior Football League. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor’s Map #9 as Lots #80 and #81, R-2 Zone.

John Sini of Darien Junior Football League explained that the youth group wishes to piggyback on the Special Permit granted to the High School. That approval was granted on October 16, 2009 and allows the High School to use the temporary lights at the football field for practices. The DJFL is requesting approval for the 2010 and 2011 seasons to use the six temporary plug-in lights to practice in the early evening hours until no later than November 19th of each year, depending on how well the teams do in the playoffs. The temporary lights would be used only on Monday – Friday and only for practices. There will be no weekend use and no games played under the lights. The use of the lights will start approximately November 1, 2010 and a date to be determined in 2011 depending on the schedule. In each case, the lights would be turned off by 7 P.M. The practice of the Darien Junior Football League would start earlier in the evening, and it would depend on when the High School has finished using the practice field. Mr. Sini explained that the DJFL would abide by all limitations of the applicable approval, and the lights would not be utilized by DJFL after November 19th.

Guy Wisinski said that the Junior Football League was very fortunate in 2009 with the weather and with the approval that the Planning and Zoning Commission had granted. He said that they are requesting approval from the Commission so that they will be able to use the High School field with the temporary lights as necessary, depending on how long their season of playoff games does extend. Lights will allow for the young football players to practice with greater safety.

Mr. Spain noted that the Darien Junior Football League had submitted a detailed report regarding the previously approved use of the Darien High School lighted facilities on a temporary basis. He asked if there were any specific problems or issues at the High School. Mr. Sini said that one of the issues was the reflection of the temporary lights off the large windows at the Darien High School. This reflected glare headed back toward the neighboring property owners. The Board of Education included in this year’s budget request, the installation of more shielding and screening in the form of landscaping around the perimeter of the facilities, but that monetary request was cut out of the Board of Education budget. Mr. Wisinski said that there had been some discussion with the Board of Education about temporarily trying experiments with the lights so that they might be installed as

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much as 40' high so that the light fixtures could be directed downward to minimize the spillage of light and the reflection of light from the building windows. If allowed by the Commission, DJFL could experiment to see if higher lights would minimize light spillage or glare toward the neighbors.

Mr. Voigt asked if there were any instances when the High School would not need or use the temporary lights, and therefore the Junior Football League could practice at the High School facility earlier in the evening and thus avoid the need for the lights. Mr. Wisinski said that there are some times when the High School does not use the practice field, but that the DJFL is not able to schedule their practices before 5 p.m. because they need to have enough coaches and volunteers at the site when the players are there. He also noted that in the past, the Planning and Zoning Commission's approval specified the starting time and ending time of the DJFL practice sessions.

Walter Raleigh at 369 Middlesex Road said that the plug-in lights used at the High School were a great improvement relative to the noise problem that had existed two years ago when they used generators at each of the six temporary light fixtures. He also said that Superintendent Fital of the Darien Board of Education jumped into the issue to address the concerns of the neighbors. Shades were installed on the windows to help minimize the reflection of light, but he said that the practice lights still violate the provision of the Zoning Regulations regarding glare. He submitted four photographs of the practice lights in use taken by various neighbors. He said that the source of the lights must be concealed in accordance with the Regulations, and they cannot be directed toward the neighbors. They must be directed away from the neighbors. He said that in some cases, the neighbors actually view the light bulbs (the source of the light) not just the reflection or the glow of the lights. He explained that the photographs are from various views on Hummingbird Lane and Linda Lane, and said that there are as many as 24,000 watts of power being used that create a considerable amount of light. Much of that light is reflected off the building and bounces back toward the neighbors. He believed that before the Planning and Zoning Commission approves a multi-year permit, the issue of reflected and directed light problems must be corrected. He said that a visor or increased use of shields would be necessary, and that the start of the use of the lights on November 1, 2010 would be a week before the change from Daylight Savings Time to Standard Time. Mr. Raleigh said that the use of the field definitely increases due to the lights, and he noted that up to three teams do sometimes use the field at the same time.

Mr. Sini said that the DJFL would continue to work with the Board of Education and the neighbors to address concerns the neighbors have. Mr. Wisinski said that sometimes the DJFL does combined team drills, and have separate practice areas depending on the size of the players or the type of drill being performed.

There were no other comments regarding the application. The following motion was made: That the Planning and Zoning Commission close the Public Hearing on the matter and will make a decision at a future meeting. The motion was made by Ms. Cameron, seconded by Mr. Hutchison and unanimously approved.

The Commission took a brief break. Mr. Conze then read the following agenda item at 9:16 p.m.

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Continuation of Public Hearing regarding Proposed Amendment to Zoning Map (COZM #1-2010) and Proposed Amendment to Zoning Regulations (COZR #2-2010), Thomas E. Golden Realty, Co., 169 Noroton Avenue LLC, & Noroton Heights Shopping Center Inc., 22 through 346 Heights Road; 72 Edgerton Street, and Edgerton Street (Map #75 Lot #30); and 273 West Avenue. Proposing to amend the Zoning Regulations to establish a new overlay zone—the Noroton Heights Mixed Use (NHMU) Zone and to amend the Zoning Map by “landing” that Overlay zone on the subject properties; and to create a new Section of the Zoning Regulations entitled, “Noroton Heights Mixed Use Zone (NHMU)” and to modify existing Sections 311 (Zone Classifications), 905 (Joint Parking) and 907 (Parking Structures) of the Zoning Regulations. The subject properties are located on the north side of Heights Road, consisting of approximately 18 acres, and are shown on Assessor’s Map #74 as Lots #8 through #20; and Assessor’s Map #75 as Lots #1-#4 and #22-30, all now within the DC (commercial) Zone. *PUBLIC HEARING OPENED ON JUNE 15, 2010. DEADLINE TO CLOSE PUBLIC HEARING IS JULY 27, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Bruce Hill represented the applicant and noted that Director of Planning, Jeremy Ginsberg, had submitted a memo dated July 27, 2010 comparing the existing and proposed zoning districts. He said that at the July 13th public hearing, concerns were raised regarding things such as traffic and drainage. He said that this is only a zone change request and it is the first of several steps necessary before there could be any redevelopment activity. He said that some safeguards had been incorporated into the proposed zoning overlay district to indicate that these types of uses and activities would be subject to a Special Permit approval process which gives the Planning & Zoning Commission more discretion than if it were just a Business Site Plan approval process. He said that under the Special Permit approval process, the special standards of Section 1005 must be satisfied in order for the Planning & Zoning Commission to approve the redevelopment. Part of the specific detailed plans for the redevelopment would address things like traffic and drainage issues.

Mr. Hill said that one of the neighbors, Mr. Jordan, had expressed concern about drainage, traffic, multi-family housing use and greater building height. He said that another neighbor opposed low cost housing and did not want to have a low income housing project near his home on West Avenue. Mr. Hill said that the Planning & Zoning Commission’s goal is to create affordable housing if and where housing is to be built. He said the Section 580 of the Zoning Regulations requires some below market housing units. He said that creating affordable housing is not the applicant’s goal, but they will comply with any Commission requirement if housing is to be created. Mr. Hill said that another neighbor’s concern was the high water table. Mr. Hill said that the applicant is well aware that drainage is a big concern for all property owners in the Noroton Heights area and any development that is proposed will need to study and address the drainage concerns. He said that right now drainage problems are somewhat of a devaluation of the neighboring properties and would have to be addressed as part of any redevelopment project. Mr. Hill said that the Planning & Zoning Commission is always very aware that any approval that they grant cannot have any diminution of neighboring property values. He said that is one of the criteria under Section 1005 of the Regulations. Mr. Hill also noted that the Commission had earlier asked to continue the Public Hearing until that evening so that they could get input from the Architectural Review Board. He agrees that the ARB input would be helpful. He also noted that the scale and appropriateness of each building design would need to be judged by the Planning & Zoning Commission as well.

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Mr. Hill said that one of the neighbors said that if housing units are to be built, they should be condominium units that are for sale rather than rental units. Mr. Hill said that it is very difficult and problematic to legislate what type of unit ownership there would be; or to impose any age restrictions or to avoid school children. He said that there is some question as to the authority and practicality of prescribing such limitations. Mr. Hill said that the proposed overlay zone for the Noroton Heights district is not trying to compete with the downtown or displace the Central Business District zone. He noted that the Noroton Heights overlay zone would have a limitation on the maximum percentage of site coverage and building coverage whereas the Central Business District does not limit site coverage or building coverage. Mr. Hill said that another point raised in the previous hearing was the importance of sidewalks and pedestrian circulation. He agrees that those are important features that will have to be included in any type of redevelopment design. He noted also that Section 880 of the Regulations, regarding storm water management, will be applicable.

Attorney Hill said the proposed Regulations try to simplify the area and bulk and setback requirements. He distributed a handout with alternative suggestions regarding lot size and shape and specific setback requirements adjacent to residential neighbors. Mr. Hill referred to Mr. Bolton's letter concerning traffic and agreed that traffic is one of the issues that is now a problem and must be addressed as part of any redevelopment. Mr. Conze said that any traffic study would need to take into account all of the approved redevelopment projects that would generate additional traffic in the wider vicinity. These include the housing project on West Avenue and the Housing Authority's proposed redevelopment on Noroton Avenue. Mr. Spain said that it would be important to assess the cumulative impact of existing traffic plus the various projects that have been approved plus the redevelopment of the Noroton Heights business area. Mr. Hill questions what the parameters of any traffic study done now would be because, at this point, no specific development has been proposed. The only thing the traffic consultant could do would be a conceptual model that maximizes development of all the commercial properties and all the residential sites in the Noroton Heights area. That is one of the reasons that they have not performed a Traffic Study as part of the zone change application.

Mr. Conze noted that storm water management and drainage problems are a big issue within the entire community and in the Noroton Heights area in particular. He said that much of the issue is a Town problem that must be dealt with on a coordinated basis. Mr. Hill said that the redevelopment of the Noroton Heights district must improve or, at a minimum, be neutral about drainage and storm water management. He said that his client, Mr. Golden, will work with the Town to address flood management issues.

Mr. Voigt asked why the proposed changes are needed. Mr. Hill responded that the proposed mixed use zone would allow greater flexibility and discretionary control to the Commission. This will allow a greater variety of uses and a mix of uses including retail, residential, restaurants, and offices. He said that the proposed changes should be made by the Planning & Zoning Commission as policy issues rather than applicants having to go to the Zoning Board of Appeals to prove a hardship in order to obtain a variance. He said that this is a planning decision for the Planning & Zoning Commission to deal with.

Mr. Ginsberg reviewed his memorandum of July 27, 2010 comparing the existing DC Zone with the proposed Noroton Heights mixed use overlay zone. He said that the uses allowed would be more

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flexible, particularly with respect to restaurants and offices. Area and bulk modifications would give a greater degree of flexibility than the present zoning, but not nearly as permissive as the Central Business District. He said that the height regulations would change from two stories to three stories and from 30 ft. tall to 42 ft. tall and this was in part due to topographic elements and would allow for under-story or under-structure parking. He pointed out that, unlike the Central Business District, the Noroton Heights business area has no municipal parking lot. He said that the Parking Regulations would also be modified so that, in addition to allowing under-structure parking, the Regulations would also limit the amount of waivers of parking for mixed use developments that the Planning & Zoning Commission could grant. A 50% maximum waiver would be the most that someone could obtain. He noted that the Planning & Zoning Commission has already amended the Regulations to reduce the parking requirement based on square footage floor area. Mr. Ginsberg then reviewed the Architectural Review Board memo of July 21st and noted that he had read aloud at the last hearing the comments from the Southwestern Regional Planning Agency.

Attorney Hill said that some of the key changes included the building height regulations and that along West Avenue topographic conditions and the slope of the street would need to be taken into the calculations about permitted building height. This would allow residential uses to be placed along the West Avenue street frontage so that they would be compatible with the residential uses located on the north side of West Avenue. He said that the Commission also needs to note that within 50 ft. of the residential zone boundary line, the maximum height regulations of the nearby residential zone would be applicable within the proposed NHMU Zone.

There being no further comments, the following motion was made: That the Commission close the public hearing regarding this matter and will make a decision at a future meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Chairman Conze read the following agenda item:

Business Site Plan #275/Special Permit, Noroton Heights Shopping Center (tenant: Phil's Grill), 340 Heights Road. Proposing to establish a restaurant with seasonal outdoor dining in the space formerly occupied by Roxy Video, within Noroton Heights Shopping Center. The subject property is located on the north side of Heights Road approximately 250 feet east of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #75 as Lot #22-24, and is in the Designed Commercial (DC) Zone.

Attorney Wilder Gleason represented the applicant and explained that the proposed restaurant would be located within Building B in the Noroton Heights Shopping Center, which is in the Design Commercial Zone. The space had formerly been occupied by Roxy Video and is now vacant. He said that this would be a family type restaurant and would have a beer and wine license, but not a full liquor license. There is more than 800 sq. ft. of indoor customer seating space and they propose 57 customer seats within the building. In addition, they are proposing 720 sq. ft. of outside dining area to contain 32 chairs on a new paver/patio area to be created. He said that the paver/patio will utilize as much pervious material as possible to minimize the impact of storm water runoff. The outside dining area would need to be fenced in order to comply with State liquor control licensing requirements. Attorney Gleason said that the nearest residential buildings are approximately 240 ft. away on West Avenue and 260 ft. away on Hollow Tree Ridge Road. He said that he did not anticipate any adverse impacts on the neighboring residential properties. He noted that Architectural

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Review Board approval had been obtained. They expect to have a maximum of 6 employees at the site at any given time and sufficient on-site parking is available within the shopping center. Of the 84 parking spaces in this portion of the shopping center, 30 or more of these parking spaces currently are available even at the busiest times when all the other businesses are in operation.

Attorney Gleason said that deliveries to the new restaurant, to be called Phil's Grill would be from the west side or north side of the building so that they would not obstruct traffic flow. He said delivery vehicles already park in those areas and he requested a formal waiver of the creation of a dedicated unloading zone. Attorney Gleason said that use of the trash dumpster had originally been proposed for the northwest corner of the property. There is already a dumpster there and they had proposed to expand the enclosure for that. In response to neighbor concerns, however, they now propose to change the plan. Trash from Phil's Grill would be placed in a dumpster to the southeast of the outside dining area and that way it will be farther away from the neighbors. He also noted that three new propane tanks will be located on the west side of the building.

He said that the restaurant would not be open in the early morning and that the traffic study (mentioned above) had concluded that there is more than sufficient on-site parking to accommodate the proposed business. He did add that they must modify some of the parking spaces to comply with the Building Code requirements regarding handicapped parking spaces.

Steve Jones, a designer of the architectural features, said that they would be adding a door on the south side of the building and installing new signage. New handicapped bathrooms would be provided within the building. He said that the new hood and venting system from the kitchen facility would use disposable filters to provide primary treatment for the exhaust fumes. He said that providing a third level of very sophisticated odor controls would cost about \$40,000 to install and then cost \$2,000 for the filters. Mr. Spain said that the standard water wash and grease control odor filters usually need to be installed to avoid having any odor problems affecting the nearby business operators and nearby residences. If a different system can provide comparable effectiveness, then it could be used, but the odor problem must be avoided. Mr. Conze remembered that the restaurant odor problem was very serious within the Noroton Heights Shopping Center at some point in the past. He said that the odor control needs to be effective and needs to be upgradable if it is not effective enough.

Phil Santomassi, the proposed operator of the "grill", said that the Noroton Heights area needs a place for people to go for a good meal at a reasonable price. He said that this neighborhood is under-served with respect to decent restaurants.

Mr. Voigt expressed concern about the trash dumpster location. Mr. Gleason said that the existing trash dumpster on the northwest corner of the property will be left alone and instead they will be upgrading the trash dumpster area located southeast of the outside dining area. That trash dumpster area will need to be serviced and emptied more frequently to avoid any odor problems.

There were no comments from the public regarding the proposed application. The following motion was made: That the Commission close the public hearing regarding this matter and will make a decision at a future meeting. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

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Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding 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. Hutchison abstained from any discussion or participation regarding this matter in order to avoid any perceived conflict of interest. He left the auditorium.

The Commission noted that this is a continuation of the public hearing regarding this matter. The goal is to flip the orientation of the building because it is located so far away from Old Kings Highway North and so close to the municipal parking lot. Attorney Wilder Gleason represented the applicant and noted that the building is approximately 100 ft. from Old Kings Highway North and they are proposing a slight expansion of the building on the northwest side (closest to the municipal parking lot). They have received approval from the Board of Selectmen to make improvements to the portion of the property immediately adjacent to the municipal parking area. This includes a new sidewalk on Town land. The Board of Selectmen did not make any decision regarding the 5 ft. wide by 20 ft. long landscape area to the west of the building. He said that that decision will be up to the Planning & Zoning Commission. Previously the Commission has indicated that they want the area to be a landscaped, walkway/pass through area so that pedestrians can get from the municipal parking area to Old Kings Highway South. No formal easement would be granted, but the public would generally be allowed to use the walk through as a courtesy by the property owner. Attorney Gleason said that they have also obtained a variance from the Zoning Board of Appeals to allow the 10 on-site parking spaces to service the existing building. He said that a new handicapped access ramp will cause the elimination of one of the existing 11 parking spaces. The Zoning Board of Appeals also granted the variance with respect to the sign installation and the Architectural Review Board had approved the sign designs.

Loren Meyer of Sound Architecture reviewed exterior design drawings. He noted that the work would not have any impact on the existing large sycamore tree located close to Old Kings Highway South. They will also be preserving the existing tree that is located in a portion of the parking lot. Attorney Gleason said that they are formally requesting that the Commission waive the requirement for drainage improvements because the proposed addition is over an existing brick patio terrace area and there will be no change to the runoff characteristics. He said that runoff flows toward the municipal parking lot and into the public drainage system in that area.

There were no comments from the public regarding the application. The following was made: That the Commission close the public hearing regarding this matter and will make a decision at a future meeting. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

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Coastal Site Plan Review #209-A, Flood Damage Prevention Application #288, William & Rose-Marie Shanahan, 58 Sunswyck Road. Proposing construction of a fixed timber pier, ramp and floating dock on the westerly shore of the property and to perform related site activities within regulated areas. The subject property is located on the east side of Sunswyck Road approximately 630 feet south of its intersection with Tory Hole Road, and is shown on Assessor's Map #62 as Lot #22-1, and is in the R-1 Zone.

Mr. Hutchison returned to the meeting.

Attorney Wilder Gleason represented the applicant and reviewed the fact that in order to install the pier, the applicant had to get approval from the Environmental Protection Commission to modify the open space area so that the pier structure would comply with the side yard setback requirements. They have also obtained approval from the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers regarding the over water portions of the structure. He said that the stairs from the house down to the waterfront area have already been approved by the Planning & Zoning Commission and have been installed. They are now seeking to finalize the Planning & Zoning Commission approval so that they can construct the landward base portion of the pier.

John Roberge, P.E. of Roberge Associates, explained that, in order to construct this pier, they will be using all timber, particularly yellow pine. It will be driven into the ground. Access to the site will be via barges rather than materials coming down the steep embankment from the street and house. He said that there will be minimal land impact and that during construction they will comply with all DEP stipulations and conditions.

Mr. Ginsberg read aloud the July 15, 2010 email from the Connecticut Department of Environmental Protection. It confirmed that the DEP had issued a permit for the proposed work and found that the proposal was not inconsistent with any of the Coastal Area Management Regulations,

There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing regarding this matter and will make a decision at a future meeting. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

There being no further business, the meeting was adjourned at 10:59 P.M. The next meeting of the Planning & Zoning Commission is scheduled for September 7, 2010. At that time or at any subsequent meetings, decisions regarding these matters will be discussed.

Respectfully submitted,

David J. Keating
Assistant Director