

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
September 14, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79

PUBLIC HEARING

Chairman Conze read the first agenda item:

Continuation of Public Hearing regarding 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 OPENED ON 7/27/2010 AND IMMEDIATELY CONTINUED TO 9/14/2010. DEADLINE TO CLOSE PUBLIC HEARING IS 9/14/2010, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Chad Nehring, architect for the applicant, submitted a letter that was a Certification from the Project Engineer regarding the foundation to be built within the Flood Hazard Zone. He also submitted a revised engineering map and plan dated 9/9/2010. Mr. Nehring explained that the property is located within the Noroton Bay District, and is a 15,673 square foot parcel of land. The existing house was built in 1949 and is located below Elevation 12, which is the expected flood level. The plan is to demolish the existing house and to construct a new house with the first floor level being at Elevation 13, one foot above the expected flood level. The slab of the crawl space beneath the new house would be at Elevation 8.9 feet at the perimeter and 9.5 feet at the center, so that any water in the crawl space will drain to the outside. The foundation will be constructed to withstand the flood forces and all the duct work below the first floor will be flood proof to avoid damage that might occur during a flood condition. The oil tanks will be located within the garage or within the crawl space. They will be strapped down to avoid flotation in a flood event. Mr. Nehring explained that the proposed regrading of the site would be minimal, and would be in accordance with the submitted plan. The applicants do not expect to start construction for at least a year or two, thus they are requesting an extended permit.

Mr. Hutchison asked if the proposed mechanical pad at the rear of the house would be large enough to accommodate the air conditioning units and a generator. Mr. Nehring said it had been designed to be large enough to accommodate those types of equipment. He said that the proposed propane tank would be buried. In response to a question about the oil tank that might be in the crawl space, Mr. Nehring explained that he has designed an access doorway from the garage into the crawl space so that if the oil tank needs to be removed, it would fit through the access doorway. He also noted

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that the garage has been designed to be large enough to accommodate storage because there will be no basement for storage.

Mr. Hutchison asked about the footing design and noted that much of the soil in the Noroton Bay area is unstable. Mr. Nehring said that they have designed a standard footing, but they will check once excavation work has started to verify that the standard footing will be adequate. If need be, they will upgrade the footing to comply with the soil conditions. Mr. Nehring said that the storm water from the proposed roof area will be directed into a series of infiltrators that will allow rain water to soak into the ground. These infiltrators will be completely inundated during a flood condition. The infiltrators will work well during a rain storm, but will not work during a tidal flood situation. Mr. Nehring said that the salt water would not impact the infiltrators once the flood waters had receded. There is a standard maintenance plan that will be followed regarding the storm drainage system. In response to questions, he said that they are keeping the existing grades rather than filling and regrading.

Mr. Ginsberg read aloud the response from the Connecticut Department of Environmental Protection (DEP). They indicate that they find no inconsistencies between the proposed plan and the Coastal Area Management policies.

Mr. Spain asked why a two-year approval to commence construction was being requested. Mr. Nehring said that this request was based on the financial and economic uncertainties. Mr. Spain noted that the applicant has submitted no special reason that is unusual with respect to this property.

John Schrenker of 196 Nearwater Lane explained that his property is located just to the west of the subject property. He said that he is generally in favor of the proposal but is concerned about storm water runoff and the drainage system. He said that his engineer has reviewed the plans and been in touch with the applicants' engineer. He felt that those engineering comments should be incorporated into the plan. Mr. Schrenker said that on his property, there is a terrace that allows for some outside use, but the low portion of his yard is designed to accommodate water until the water sinks or soaks into the ground. He suggested that the Planning and Zoning Commission require a similar drainage system on the subject property so that runoff water will not be directed toward the neighbors, but rather will have a low spot on the subject property in which to accumulate and temporarily pond until the water is able to soak into the ground. He also asked that the Commission stipulate that no additional grading or filling be allowed as those changes might negatively impact the neighbors.

Mr. Hutchison said that apparently the subject property does not cause a drainage problem now, and the Commission wants to make sure that the proposed redevelopment does not create drainage or water runoff problems in the future. Mr. Nehring said that it probably would be possible to install a drain pipe from the low portion of the rear of the subject property into infiltrators. Piping the water into the currently planned infiltrators might not be the best solution. It might be more appropriate to create another set of infiltrators adjacent to the low portion at the rear of the property.

There were no other comments from the public, and no additional questions from the Commission members. The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

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At about 8:25 p.m., Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding 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 OPENED ON 7/27/2010 AND IMMEDIATELY CONTINUED TO 9/14/2010. DEADLINE TO CLOSE PUBLIC HEARING IS 9/14/2010, UNLESS EXTENSION IS GRANTED BY THE APPLICANT.*

Richard Wood represented the applicant and explained that the property is partially located within the Federal Emergency Management Agency's Flood Hazard Zone. The calculated flood would rise to Elevation 46. This expected flood zone does touch a portion of the existing foundation. The proposed work would regrade the property so that all the ground is at least Elevation 46.5' above sea level and a large patio would be constructed. Mr. Wood explained that there is a flagged wetland on the property, but no disturbance is proposed within the wetland itself. They have obtained approval from the Environmental Protection Commission (EPC) to do work within the regulated area surrounding the wetland. The proposed regrading would have a net gain of approximately 30 cubic yards of fill within the Flood Hazard Zone. The Environmental Protection Commission required that another portion of the property be lowered slightly to reduce the amount of displaced flood waters.

Mr. Wood explained that the proposed retaining wall, and thus the new patio would be approximately 4 to 5 feet above the existing ground level. The area between the retaining wall and the house would be back filled with soil material so that the patio will be placed on that new ground. Infiltrators have been designed into the proposed work to catch some of the storm water runoff from the building and direct it into the infiltrator so that it can soak into the ground rather than direct runoff toward the wetland. All of the surface drainage would move in the same direction as the existing patterns.

Mr. Ginsberg read aloud the June 7, 2010 from the Southwestern Regional Planning Agency indicating that they found no inter-municipal impact due to the proposed work.

There were no comments from the public. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

At about 8:30 p.m., Chairman Conze then read the following agenda item:

Flood Damage Prevention Application #290, Paul & Karen Clifford, 16 Linda Lane. Proposing to relocate an existing chicken coop and install a fence within a regulated area. The subject property is located on the southwest side of Linda Lane approximately 1,065 feet southwest of its intersection with Hanson Road, and is shown on Assessor's Map #9 as Lot #98, within the R-2 Zone.

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Karen Clifford explained that they had constructed a chicken coop on the northeast portion of their property. In response to neighborhood complaints, the Zoning Enforcement Officer asked them to stop work, which they have done. They have obtained a survey to determine exactly where the coop is located and found that it is located slightly too close to the side property line. It must be relocated, but they have not done so until they can obtain all permits for the work. The chicken coop location is within the Flood Hazard Zone and therefore the structure must be anchored to the ground in order to prevent possible flotation during a flood condition. The chicken coop is located within the flood plain, not the flood way (the main flow channel of the flooded watercourse). A substantial portion of the property is wetland soil and/or within 100 ft. of the watercourse or within 50 ft. of the actual wetland soil. The proposed chicken coop is not within these areas regulated by the Environmental Protection Commission. It is located approximately 55 ft. from the wetlands.

Mrs. Clifford said that waste material from the chickens would be used as fertilizers on the property. She knows of owners in Town who have chickens. As far as she knows, there are no complaints about the noise or the smell from those chickens. In addition to the chicken coop structure, a small area will be fenced in so that the chickens can be outside, but still under control. She said that they will not have a rooster so there will be no noise problem. She said that they will start by having three chickens and then maybe expand to 6 or so chickens. This coop has been designed to accommodate up to 12 chickens.

Sara Ungemack-McCool, Landscape Designer, explained that she has owned chickens for more than 20 years at her property and said it is not likely to be a problem with respect to waste management or odors or noise.

Mr. Spain said that by locating the chicken coop within the Flood Hazard Zone, there is a serious risk that the waste material would be distributed by flood waters. Mrs. Clifford said that the structure itself would be anchored in place so that it would not be relocated. Mrs. Ungemack-McCool said that she has 8 chickens and they produce no more than three cups of waste per day. The chicken coop would be cleaned regularly and that waste material would be removed. She said that the chickens need to be fed and watered every day and thus there is a need to do maintenance every day. She said that there is a lot of wetland on the site and that this is a relatively high spot even though it is within the Flood Hazard Zone. In response to questions, Mrs. Ungemack said that once the chickens are enclosed, it is easy to catch the birds when you need to. She said that it is easy to keep the chickens in the coop during the winter without the need for artificial heat, except that you must make sure that the water does not freeze. Mr. Conze said that the chickens are likely to attract coyotes and other predators. He said that this could endanger dogs, cats and other pets in the neighborhood. Mrs. Ungemack-McCool said that she did not feel this would be a safety issue,

Mr. VanDenBroek of 15 Linda Lane said that he lives across the street and is very opposed to the chicken coop. He said that the structure is unsightly and has been located as far from the owners' house as possible and as close to the neighbors' property as possible. He said that the chicken coop is unsanitary because the feathers and debris will blow toward neighboring properties and will attract rodents that will become more prominent in the neighborhood. He said that the runoff from the adjacent streets travels as a sheet flow through this portion of the subject property and putting a structure in the way will impede that flow. It also means that waste products from the animals will also be carried by the surface water into the downhill wetlands and watercourse. He said that the

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Planning & Zoning Commission needs to protect the citizens from this type of intrusion. Mrs. Cameron asked about the planting of landscaping to screen or soften the view of the chicken coop structure. Mr. VanDenBroek said it might help somewhat, but it will not solve the sanitary issues.

Jane and John Wolcott of Linda Lane said that chicken coops do not belong in the front yard. She submitted a copy of her letter that had been sent to the Environmental Protection Commission (EPC) expressing concern that flooding does occur in the area and will only get worse due to the continuing development of the municipality. She said that chickens do not do well in extreme heat and this chicken coop site is in direct sunlight. She expressed concern about the smell problem and the attraction of rodents and predators like coyotes. She said that some neighboring properties have storage barns or sheds, but they are located in the back yard not in the front yard as this coop has been located. She said that if the applicants want to have a coop on their property, they should relocate it so that it is behind their own house and located outside of the Flood Hazard Zone. In this way, the noise and smells and other nuisances would be less of an impact on the neighboring properties. There was some discussion about the Environmental Protection Commission's jurisdiction. Mr. Ginsberg said that the EPC has concluded that they do not have jurisdiction due to the agricultural use of the structure.

John Wolcott claimed that bird feeders attract rodents due to the seeds on the ground and the feeding of these chickens will only serve to attract more rodents. He said the details of the waste disposal process and program need to be submitted for review. He also said that the proposed privet hedge will not provide year round screening and that the facility will need constant and daily maintenance. He questioned what would happen when the chickens are no longer needed or wanted. At that point, the structure would no longer be an agricultural use and he wondered whether the structure would be removed.

Sara Ungemack McCool said that her chickens are located 30 ft. from her deck and there is no smell problem. Mrs. Clifford said that they have considered other locations on their property. She said that this location is actually her side yard, not her front yard and it is located near her woods. She said other areas on her property are lower and therefore would be more susceptible to flooding on a more frequent basis or are located close to her swimming pool. She said that a plywood floor within the coop would keep the birds off the ground. She also said that she has bird feeders and has no known problem with rodents being attracted by the bird seed.

Mr. Spain said that if the use is exempt from Environmental Protection Commission Regulations due to the agricultural use, then it might be possible to have the coop located near the pool equipment and therefore be farther from the neighbors and still located above the expected flood zone. Mrs. Clifford said that the slope in that area would require the installation of a platform structure or additional filling. Mr. Hutchison said that having it in that location might be the safest location since it would be outside of the flood zone and the chicken coop would have a plywood floor in any event.

Other possible locations of the chicken coop were discussed. There being no further questions or comments, the following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

GENERAL MEETING

Deliberations only on any public hearings closed on September 14, 2010.

Commission members discussed the hearings that had been closed earlier in the evening. They instructed the staff to draft a conditional approval for the project at 8 Waverly Road, noting that an additional drainage structure must be located at the rear portion of the property line and a final certification must indicate the final grades being no higher than what has been submitted and approved. Commission members believed that the approval should only be valid for the standard one year period. If the applicant wants an extension, they can request it at the appropriate time and the Commission will consider the request. The Resolution should also note the high building coverage in this proposal, and that no future expansions or additional structures would therefore be allowed.

Commission members asked staff to draft a Resolution approving the project at 47 Echo Drive North, but noting that the site development has been maximized.

With respect to the proposed chicken coop at 16 Linda Lane, Mr. Conze said that the coop should be relocated in a position so that no one else sees it and Mrs. Cameron said that the issue is really the fact that it is in the flood zone, not the use of the structure. Staff will draft Resolutions for consideration at the September 28th meeting.

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

Mr. Ginsberg asked if the Commission would discuss the Whole Foods Market site on Ledge Road under "Other Business". The following motion was made: That the Commission discuss Whole Foods Market. The motion was made by Mr. Hutchison, seconded by Mr. Conze and unanimously approved.

Mr. Ginsberg indicated that now that the facility has been opened, it is time for Whole Foods to fulfill one of the conditions of approval that requires that the Traffic Study be conducted after the store is open. Commission members indicated that issues to be studied should also include a right turn from Leroy Avenue onto the Boston Post Road and the safety of pedestrians as they cross Ledge Road.

There being no further business, the meeting was adjourned at 9:45 P.M.

Respectfully submitted,

David J. Keating
Assistant Director