

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
September 28, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79

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**PUBLIC HEARING**

Chairman Conze announced that due to a scheduling problem with one of the applicants, the order of the agenda would be changed. He read the following agenda item:

**Coastal Site Plan Review #258, Flood Damage Prevention Application #292, Land Filling & Regrading Application #246, Robert & Justine Stewart, 24 Cross Road.** Proposing to raze the existing residence and construct a new single-family residence with associated septic system and storm water management system and perform related site development activities within regulated areas. The subject property is located on the north side of Cross Road, approximately 325 feet west of its intersection with Hope Drive, and is shown on Assessor's Map #69 as Lot #11, in the R-1 Zone.

James McTigue, Professional Engineer, represented the applicants and explained that the plan is to construct a replacement house with a new septic system and a new drainage system. Most of the activity will be outside of the flood zone and the entire house will be outside of the flood zone, but some filling will take place within the flood zone to create the revised driveway. Mr. McTigue explained that Environmental Protection Commission approval and Health Department approvals have already been obtained. The Drainage Plan submitted to the Planning & Zoning Commission was fully reviewed by the Environmental Protection Commission (EPC) and was revised in accordance with the EPC Permit. Those revisions included the installation of a rain garden and moving the level spreader farther away from the property line than the original design.

Mr. Ginsberg noted that the Environmental Protection Commission approval is referred to as application EPC #36-2008. He also said that the property is adjacent to land owned by the Darien Land Trust. He understands that some blasting may be needed in order to accommodate the new structure. Any blasting would require a permit from the Fire Marshal.

Mr. Voigt questioned the elevation of the cultec unit. Mr. McTigue responded that the cultec unit would be at elevation 9.0. There is no ground water detected at that elevation. The cultec unit will work during rain storms, but during a coastal flooding event, the cultec unit will not detain any added water because the area will be inundated. He said that they are not relying on infiltration to make sure that the calculations work. He said that the cultec units are providing water quality improvement and the volume of the cultec unit itself is the only factor in the storm water retention.

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

At about 8:06 p.m., Chairman Conze read the following agenda item:

**Land Filling & Regrading Application #248, Michael Kadish, 4 Robinson Street.** Proposing to fill and regrade in the back yard with associated stormwater management system in the side yard and perform related site activities. The subject property is located on the east side of Robinson Street, approximately 165 feet north of its intersection with West Avenue, and is shown on Assessor's Map #24 as Lot #33-34, in the R-1/3 Zone.

Sam Northrup, Professional Engineer, represented the applicant and Twardy Landscaping. He submitted photographs of the existing site conditions and discussed the proposed construction activities. The installation of a new patio would potentially increase the amount of runoff that would flow towards neighboring property owners. To address this issue, they have included in the design, the installation of numerous infiltrators. This will allow the additional storm water to soak into the ground rather than becoming runoff. The water will be discharged into the ground the same as it would be if the patio was not constructed. Mr. Northrup said that he could not give any assurance that the ground water will not move toward the neighbor, but indicated that the ground water would be the same because the amount of water being percolated into the ground would be the same. The ground water will move toward the neighbor or toward the street in the same manner that it does today. He said that they will not be blasting, but may need to use a hoe ram if they cannot peel the rocks off with the backhoe. There is rock in the backyard and part of the goal is to level the backyard to make a more acceptable play area for the children.

There was some discussion about the existing catch basin in the backyard. Mr. Northrup indicated that the basin leads to a dry well, but when that dry well is at capacity, then the water puddles up. He said that the directional flow of the surface water will not change. At present, excess runoff water that does not soak into the lawn does flow toward the street. That will occur less frequently once the new drainage system is installed because more water will be directed into the ground. He said that currently the water in the street may flow into the neighbor's parking area near or adjacent to the street because that is the way that the grades exist. The proposed patio will be built to pitch away from the neighbor so that the direct runoff from the patio will not go toward the neighbor.

Greg Twardy explained that a small retaining wall is included in the plans. It will measure 12 to 18 inches in height and is only in the portions of the higher part of the back yard. Mr. Northrup said that the added top soil will soak up and hold some additional storm water so that it does not become runoff from the site. Mr. Twardy noted that approximately two to three hundred cubic yards of soil will be needed to convert the rocky backyard into a nicer play area. He mentioned that the front yard will not be changed.

Lisa Ehrlich of 360 West Avenue said that her property is downhill from the site and that she currently has not had any basement flooding issues. She does not want to have any problems with additional water and asked the Commission to make sure that her property is properly protected. She did note that water runoff from the applicant's property is directed to Kelsey Street. She said

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that she has sumps in the basement, but she does not have water in the basement. She is concerned if the ground water table rises due to the construction activity, that it might impact her. Mr. Northrup said that if she has sump pumps in the basement now, it is an indication that there has been a problem in the past and if the sump pumps do not work, there would be a flooding problem whether the Kadish property is built upon or not. Mr. Northrup said that anytime you cover the ground with impervious surfaces, the additional storm water needs to be stored above ground or below ground or discharged towards a watercourse. In this case there was no watercourse in the area and the natural flow from the site is toward the street.

Mr. Conze noted that it appears that the insulation of the cultec unit to discharge water from the patio into the ground is located on the far side of the Kadish property away from Mrs. Ehrlich's property. He would assume that it would therefore not impact the Ehrlich property.

Mr. Ginsberg stated that the Zoning Regulations require that the closest point of the terrace must be at least eight feet from the property line. In this case, it would be important to make sure that the patio pitches away from the neighboring property line.

There were no further questions regarding the matter.

The following motion was made: That the Commission close the Public Hearing regarding this application, and a decision will be made at a future meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

The following item was postponed:

**Coastal Site Plan Review #170-B, Flood Damage Prevention Application #291, Land Filling & Regrading Application #77-B, A.C. & Mandi Morgan, 4 Salem Straits (aka 4 Hawthorne Road).** Proposing to abandon the existing septic system, connect to the sanitary sewer system; construct a pool and patio with associated pool house; construct a fixed pier and fixed platform; and perform related site development activities within regulated areas. The subject property is located on the south side of Salem Straits/Hawthorne Road approximately 400 feet east of its intersection with Goodwives River Road, and is shown on Assessor's Map #62 as Lot #84, in the R-1 Zone.  
*HEARING POSTPONED UNTIL SOMETIME IN OCTOBER, 2010.*

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

**Business Site Plan #276/Special Permit, Callari Auto Group d/b/a Mini of Fairfield County, 154 Boston Post Road.** Proposing to raze the existing building formerly occupied by the Cookhouse and construct a new building for automobile dealership with associated service bays and to perform related site development activities. The subject property is located on the southeast side of Boston Post Road across the street and approximately 400 feet east of its intersection with Richmond Drive, and is shown on Assessor's Map #32 as Lot #8, and is in the SB-E (commercial) Zone.

Attorney Wilder Gleason represented the applicants and noted that in the Service Business East (SB-E) Zone, the car dealership is a use that requires Special Permit approval from the Planning and Zoning Commission. He submitted a copy of the Assessor's Map and pointed out that the property is adjacent to the Interstate Highway. I-95 is located to the south, and the northbound off ramp at Exit 13 is located to the west of the site, and the Exit 13 on-ramp is located to the east of the site.

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The Boston Post Road is located to the north. The plan is to demolish the existing building that had formerly been used as a series of restaurants. The restaurant use had approximately 106 on-site parking spaces. There are two curb cuts from the Boston Post Road into the parking lot, and those curb cuts will be maintained. The westerly curb cut (closest to the I-95 off ramp) is only accessible from traffic traveling northbound on Route 1. The easterly curb cut is accessible from both north and southbound directions of Route 1. Attorney Gleason showed photographs of the existing conditions.

It was explained that much of the parking area will be retained when the new building is constructed. The westerly curb cut will be an entrance only into the site. The dumpster area will be revised to be more in keeping with the needs of an automobile dealership. Attorney Gleason explained that the Architectural Review Board had discussed the project and were generally supportive, but noted that there were several changes that need to be incorporated regarding the canopy design and the signs. He submitted a copy of the Architectural Review letter. He also noted that the Zoning Board of Appeals had granted variances to allow the pole sign to be located closer to the street than normal due to the unusual circumstances. They had also granted other variances regarding signage.

The proposed building will have a roof area of 11,118 square feet, including the canopy. The existing building and site development covers 84.6% of the land area. The proposed building and site development will cover only 80% of the land area. Thus, it will be brought into compliance with the Regulations. Mr. Gleason pointed out the added green/landscaping space to be located along the front portion of the property. He said that there would be 61 parking spaces for employees and customers, plus at least 63 inventory parking spaces. The vehicle inventory parking spaces are allowed to be stacked or tandem spaces because the dealership will have control over the movement of all those cars.

Brian McMahon, Professional Engineer, reviewed the drainage plan for the property. He noted that the existing storm water runoff (drainage) is directed toward the four corners of the property where it enters catch basins and then is directed into the Department of Transportation right-of-way where it flows through a channel parallel to the highway and then under the highway into the Five Mile River. The proposed drainage plan will generally function in the same manner, except that storm water quality features will be added. He said that they plan to reuse the existing light poles and to upgrade the fixtures on those light poles. They will be making improvements to the dumpster enclosure area to provide better screening.

Larry Davidoff, Project Manager, said that they would be reusing the electrical system on the site. He reviewed the architectural drawings that have been revised per the Architectural Review Board comments. Basically the building is a glass and black panel design on the front third of the building and a drivit type material on the back two-thirds of the building. He said that the interior lights were directed down. Sites within the parking area will be reworked to be a whiter light and also directed down rather than horizontally. He said that the lighting will need to be kept on all night for security purposes. They will re-direct the light fixtures on the outside of the building to avoid glare caused by reflection off of the proposed glass building. The source of illumination at the lights will be enclosed with shields or shadow boxes.

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Attorney Gleason said that there are considerable distances of 200 ft. or more between the proposed commercial use and the nearest adjacent residential neighbor. Mr. Davidoff reviewed the first floor plan of the building indicating that it would be used for sales and service areas. Approximately two-thirds of the first floor would be for display and customer sales and service write-up area. Approximately one-third of the first floor would be for the 9 service bays that would be for employees only. There is no basement proposed in the building, therefore the upper portion or mezzanine level will contain a large storage area as well as employee work space and offices. Air conditioning units will be placed on the roof and the rear portion of the building so that they will not be visible from the street. He also noted that there is a concrete sidewalk at the front of the building that will be flush with the asphalt driveway. They do this so that vehicles can get into and out of the building safely and easily.

Mr. Spain expressed concern about car-carrier trucks coming to the site to deliver vehicles, and how they would be maneuvered into the property so that they would not need to park on the Boston Post Road. Mr. Davidoff said that the site has been planned so that the car-carrier trucks can enter into the site and maneuver there to off-load the cars on the property, rather than parking or maneuvering on the Boston Post Road. He said that no deliveries would be made from any vehicles parked in the street, and therefore deliveries would have no effect on the Boston Post Road (Route 1) traffic flow. The delivery vehicles would enter from the easterly driveway and exit via that same driveway. He said that the driveways are being kept the same because they work well and it avoids the need for a permit from the Connecticut Department of Transportation.

Attorney Gleason said that the applicant's Traffic Consultant has reviewed comments from the Darien Police Department and the Town's Traffic Consultant, Mike Galante. He said that the applicant is amenable to stipulations requiring: the western curb cut to be an entrance only, and to include no exit signs in that location; using the easterly driveway as an entrance and an exit; prohibiting vehicles from backing out of this site onto the Boston Post Road; and prohibiting parking or deliveries along the Boston Post Road. He also said that the applicant would be willing to pay for roadway signs that would clearly indicate the traffic movement on the Boston Post Road, but that the Town and CT Department of Transportation should be responsible for the actual installation of those signs. John Canning, the Traffic Consultant said that he had reviewed the geometry to make sure that both entrances into the site were acceptable for delivery trucks including car-carriers. He said that the automobile dealership will have much less traffic than the volume of cars that entered the site when it was used as a restaurant. He said that this site will have 9 service lifts (as opposed to 36 service bays at the BMW dealership on Ledge Road). He said that he does support the installation of new traffic flow signage and that the applicant is willing to pay for those signs, provided the Department of Transportation allows the installation. He said that the traffic counts that were conducted for the site include a number of adjustments for street flows due to the inconsistent data that was collected during the month of July. He said that they used higher estimates to account for the lower traffic counts. He said that there would be some delays of people trying to turn left into the site from the Boston Post Road, but that is expected for any left turn movements. He also said that when the traffic is very heavy on Saturdays, it is sometimes bumper to bumper back to this dealership, but that the dealership is not causing that type of traffic delay.

Charles Napolitano of Callari Auto Group said that they have control over the schedule of delivery of vehicles, and they will not schedule any deliveries on Saturdays in order to avoid adding to those traffic back-ups. He said they are not open for service on Saturdays at this present time, but might

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be open for Saturday service in the future. Attorney Gleason said that from his experience the traffic does not back up from the Norwalk line as far as this building.

Brien McMahon of Redniss & Mead explained that the storm water runoff will generally be directed to the east corner of this site and then into the State highway right-of-way as it does now. He said that the impervious area is being decreased by approximately 3,400 square feet and that the new/replacement catch basins will include deep sumps and bell traps to mitigate silt and oil flowing down through the storm water system. He said that the new infiltration system for the roof water will measure approximately 128 feet in length and will consist of 4 ft. wide/4 ft. deep infiltrators. This will decrease the peak rate of runoff by 15 to 18%. An oil grit separator is being included in the parking lot and a sediment and erosion controls will be used during the construction process. A detailed maintenance program for the drainage system has been designed and will be filed. They are asking for a waiver under Section 883-a of the Zoning Regulations because they are substantially improving the drainage system for an already developed property. He said that the existing drainage ditch located downstream functions just fine and there are no apparent problems with the flow through that area.

Matt Popp, Landscape Architect, reviewed the Landscape Plan and noted that minor work will be done to spruce up the property and improve the landscape areas.

Mr. Gleason indicated that they are formally requesting a waiver of the on-site loading space and that they need Business Site Plan approval and Special Permit approval for the proposed use. He said that there are no impacts on the neighbors or traffic conditions.

There were no comments from the public regarding the application.

Mr. Ginsberg noted that there were some comments from the Fire Marshal about the need for a fire lane and from the Health Department about the need to properly abandon the existing grease trap. Mr. Gleason said that the applicant will comply with these comments.

Mr. Spain said that the Planning & Zoning Commission should continue the public hearing so that they can receive comments from Mike Galante, the Town's Traffic Consultant. A motion was made: That the Planning & Zoning Commission continue the public hearing on October 5th or October 12<sup>th</sup> depending on the staff schedule. The motion was made by Mr. Spain, seconded Mr. Voigt and unanimously approved.

### **GENERAL MEETING**

Chairman Conze opened the general meeting and read the following agenda item:

*Discussion, deliberations and possible decisions regarding the following:*

**Amendment of Special Permit #47-C, Darien Community Association, 274 Middlesex Road.**  
Request for a special event fundraiser on October 16, 2010 and one additional event in 2011.

In order to avoid any potential perception of a conflict of interest, Mr. Spain did not participate in the discussion or vote.

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The DCA requests permission to conduct a fund raiser in October that will involve a popular band and as many as 350 to 500 people attending the concert. In the past, the Commission has authorized the DCA to conduct similar type activities on special occasions. The DCA has always had sufficient police and traffic control. They are asking permission for the October 2010 concert and permission for a similar concert in 2011. Mr. Hutchison said that he has heard no complaints from the neighbors regarding past special events at the DCA because the DCA has taken sufficient precautions to avoid problems.

After further discussion, the following motion was made: That the Commission authorize the special concert event for one time in October of 2010 and one additional time in the fall of 2011 as minor amendments to the existing Special Permit. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron. All voted in favor except Mr. Spain who abstained in order to avoid any perception of a conflict of interest.

Chairman Conze read the following 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 CLOSED ON 9/14/2010. DEADLINE TO DECIDE APPLICATION IS 11/18/2010, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Commission members reviewed the draft Resolution regarding the project. The following motion was made: That the Commission waive the process of reading the draft Resolution aloud for this application and for the other matters on the agenda. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

The Commission members discussed the draft Resolution regarding the Branca project. Minor typographical changes were discussed and agreed upon. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to conditions and stipulations as noted. The motion was made by Mr. Spain and seconded by Mrs. Riccardo. All voted in favor except Mr. Voigt who had not attended the public hearing regarding this matter. The motion passed by a vote of 5 to 0 to 1.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 28, 2010**

Application Number: Coastal Site Plan Review #214-A  
Flood Damage Prevention Application #230-A

Street Address: 8 Waverly Road  
Assessor's Map #55 Lots #16 & #17

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Name and Address of Property Owner: Melanie Branca  
8 Waverly Road  
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Chad Nehring, AIA  
Nehring + Associates  
152 Deer Hill Ave, St. 304  
Danbury, CT 06810

Activity Being Applied For: Proposing to raze the existing residence and to construct a new single-family residence, and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Waverly Road, approximately 200 feet north of its intersection with Baywater Drive.

Zone: R-NBD

Date of Public Hearing: July 27, 2010 immediately continued to September 14, 2010

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

Publication of Hearing Notice:

Dates: July 16 & 23, 2010  
September 3 & 10, 2010

Newspaper: Darien News

Date of Action: September 28, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
October 8, 2010

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 410-417 inclusive and 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 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:

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1. This application is to raze the existing residence and to construct a new single-family residence, and to perform related site development activities within regulated areas. The property is served by public water and sewer. Waverly Road is a private road.
2. According to the submitted Zoning Location Survey, the property lies entirely within flood hazard zone AE elevation 11 as shown on the recently adopted revised Flood Insurance Rate Maps that utilize NAVD 88 as the datum. The first floor elevation of the existing residence is at elevation 9.9. The existing residence does not comply with required flood elevations. The proposed new residence will have a first floor elevation 13.0, which is at least one foot above the base flood elevation. All mechanical equipment is proposed to be on a platform, and placed at or above the base flood elevation of 11.0.
3. The applicant's proposal complies in all respects with the Darien Zoning Regulations. The Commission specifically notes that the proposed building coverage on the submitted Zoning Location Survey (last revised on July 27, 2010) is listed at 19.64% of the lot area. The maximum currently allowed in the R-NBD Zoning district under Section 406 of the Regulations is 20.0%. Thus, the Commission acknowledges that the property owner will be quite limited in any further construction/development of the subject property.
4. The neighbor on Nearwater Lane to the west hired an engineer from Redniss & Mead to review the submitted plans. He sent an e-mail dated September 14, 2010. In response to those comments, and comments received from the Darien Public Works Department, the applicant revised the plans to include percolation test data and deep test data, and included a proposed high level overflow grates in the stormwater infiltration system. The changes in the plan are outlined in a September 14, 2010 letter from professional engineer Dairius Virbickas.
5. The submitted Grading and Drainage Plan shows the a proposed stormwater management system consisting of 202.5 linear feet of cultic units leading to 100 hd leaching chambers, to be located between the proposed residence and the south property line. During the public hearing, the neighbor on Nearwater Lane to the west asked for confirmation that no stormwater would run from the house or proposed elevated bluestone terrace toward his property. The submitted Plan does not show any grading at all on the west side of the house, other than that needed to construct the proposed elevated bluestone terrace.
6. The submitted Grading and Drainage Plan shows that three large trees on the subject property are proposed to be removed—a 15" maple on the north property line; a 24" oak, which is in front of the proposed garage; and a 24" pine, which is near the southeast corner of the property. All other trees shown on the Grading and Drainage Plan as not being removed, shall not be removed.
7. The foundation will be designed to comply with the flood damage prevention regulations. During the public hairng on this matter, the applicant's representative confirmed that they will not be changing the topography of the property. The runoff will be absorbed on site rather than directed towards the neighbors.
8. The Commission notes with respect to the proposed drainage system, the need for the property owner to file a Notice of Drainage Maintenance Plan outlining the protocol for maintenance of the

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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.

9. The applicant's representative noted within the application materials that the proposed activity will have no adverse impacts on flooding on adjacent properties and will withstand the flood depths, pressures, velocities, impact and uplift forces associated with the base flood. All mechanical and electrical equipment will be elevated to a minimum of elevation 11.0.
10. The State of Connecticut Department of Environmental Protection (DEP) Office of Long Island Sound Programs sent comments on this application dated September 9, 2010, noting that they have reviewed the application and "find no inconsistencies" with the Connecticut Coastal Management Act.
11. This property is not adjacent to tidal wetlands, and based upon the submitted proposal and the application materials which show the proposed activity more than 150 feet away from tidal wetlands, the Commission finds that there are no coastal impacts from this project.
12. 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.
13. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
14. 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.
15. 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.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #214-A and Flood Damage Prevention Application #230-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the new residence and associated grading and stormwater management shall be in accordance with the plans and letter entitled:
  - Grading and Drainage Plan, Melanie Branca and Peter Sikora, by Artel Engineering Group, LLC, dated 3/31/10 and last revised 9/9/10, Sheet 1 of 2. The Grading and Drainage Plan shall be modified to add drainage along the rear property line as noted below.
  - Details, Melanie Branca and Peter Sikora, by Artel Engineering Group, LLC, dated 3/31/10, Sheet 2 of 2.
  - Zoning Location Survey 8 Waverly Road prepared for Melanie A. Branca, by William W. Seymour & Associates, last revised July 27, 2010.Proposed New Residence Prepared for the: Branca Sikora Family 8 Waverly Road, by Nehring +

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- Associates Architecture, LLC, dated 4.15.10 Rev 8.11.10, Sheets L1, A1-A6, A9.
  - September 14, 2010 one-page letter from Dainius Virbickas of Artel Engineering Group LLC.
- B. By November 28, 2010 (within the next 60 days) and prior to the start of any work, 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 8 Waverly 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. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the new residence, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design complies with the applicable requirements.
- D. 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.
- E. No filling or regrading of the site has been requested beyond that shown on the submitted plans. No other filling or regrading is hereby authorized. During the construction process, when soil is being excavated and topsoil is being stockpiled, all excess soil shall be removed from the site so that it is not used at a later time to regrade the property any higher than the approved grades. The finished grades can be less than the existing or approved grade, but cannot be any higher. When the proposed/approved spot elevation grades have been achieved, the ground shall not be feathered or tapered resulting in surface water being directed off the subject property or toward the neighboring property(ies). As noted by the neighbor at the public hearing and his engineer via e-mail, it is imperative that the proposed grades in the rear of the property exactly match those shown on the submitted Grading and Drainage Plan. The low areas on the western portion of the site shall remain at their existing ground level. To assure that water that might otherwise be directed toward the neighbor or pocket on site in those low areas during a rainstorm, the drainage plan shall be modified to include additional drywell or infiltrator structures in the area west of the new house. This will assure that water from this site will be able to percolate into the ground on this site rather than being directed to other property. Final elevations and grades shall be shown on the as-built survey, submitted to the Planning and Zoning Office prior to the granting of a Certificate of Occupancy for the new residence.
- F. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations.

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- G. 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. This includes, but is not limited to, obtaining a sanitary sewer “cap-off” prior to Demolition, a Demolition Permit from the Building Department, and a Sewer Connection permit from Sewer Services.
- H. 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.
- I. This permit shall be subject to the provisions of Section 829f and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (September 27, 2011). This may be extended as per Section 829f and 1009. At the public hearing, the applicant’s representative requested a two-year approval. In this case, the Commission believes that it may be too early to determine if such additional time is appropriate, but is not generally opposed to such an extension. Thus, if an additional year of time is desired to commence construction, it is up to the Planning and Zoning Director’s discretion to administratively grant such an extension of time.

All provisions and details of the plans 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.

Chairman Conze 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 CLOSED ON 9/14/2010. DEADLINE TO DECIDE APPLICATION IS 11/18/2010, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

The draft Resolution was discussed. The following motion was made: That the Commission adopt the following Resolution to approve the project with conditions and stipulations as noted. The motion was made by Mrs. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Voigt who had not attended the public hearing. The motion was passed by a vote of 5 to 0 to 1.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 28, 2010**

Application Number: Flood Damage Prevention Application #286

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Street Address: 47 Echo Drive North  
Assessor's Map #30 Lot #66

Name and Address of Property Owners: Mark & Susan Luecke  
47 Echo Drive North  
Darien, CT 06820

Name and Address of:  
Applicant & Applicant's Representative: Richard Wood, RA  
Wood Architects, LLC  
PO Box 1741  
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the north side of Echo Drive North directly across from its intersection with Alpine Lane.

Zone: R-1/3

Date of Public Hearing: July 27, 2010 and immediately continued to September 14, 2010

Time and Place: 8:00 P.M. Auditorium (7/27) Room 119 (9/14) Town Hall

Publication of Hearing Notices

Dates: July 16 & 23, 2010  
September 3 & 10, 2010

Newspaper: Darien News

Date of Action: September 28, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
October 8, 2010

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 406 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 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.

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- 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. This application is 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.
2. The applicant received approval from the Environmental Protection Commission (EPC) in June 2010. That approval is incorporated by reference.
3. The Commission specifically notes that the proposed building coverage on the submitted 8/23/2010 survey is listed at 19.8% of the lot area. The maximum currently allowed in the R-1/3 Zoning district under Section 406 of the Regulations is 20.0%. Thus, the Commission acknowledges that the property owner will be quite limited in any further construction on, and development of, the property.
4. 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.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #286 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other activity shall be in accordance with the plans entitled:
  - Zoning Map of Property prepared for Mark F. Luecke and Susan R. Luecke 47 Echo Drive North, scale 1"=20', by Dennis A. Deilus, last revised August 23, 2010.
  - Luecke Residence, Site Grading and Drainage Plan, by Grumman Engineering, Sheet 1 of 1, dated 4-09-10, and last revised 8-24-10.
  - Wood Architects LLC Renovations and Additions for the: Luecke Residence 47 Echo Drive North, dated 8/26/10, Sheets A1-A5.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the new foundation complies with the applicable flood damage prevention requirements. The foundation design incorporates several flood vents/gates that will allow flood water to enter the inside of the new foundation wall to equalize pressure and minimize the possibility of collapse or lateral movement of the house. When flood waters recede, the design of the slab and the flood vents/gates will allow the flood waters to automatically drain from within the new foundation. The plans shall also include any waterproofing measures to be incorporated to minimize flood damage.

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- C. During construction, the applicant shall utilize the sediment and erosion controls as shown on the submitted Site Grading & Drainage Plan, and as may be necessary due to site conditions. These sediment and erosion controls as may be needed due to site conditions, 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.
- D. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final “as-built” survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
- 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. This includes the requirement for a Street Opening Permit from the Darien Public Works Department. A final Certificate of Occupancy will not be granted until all conditions of all town bodies have been satisfied. This includes the Building Official and Zoning Official.
- 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. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit. The Commission hereby requires implementation of the approved plan within one year of this action (September 28, 2011). This may be extended as per Section 829f.

All provisions and details of the plans 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.

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. *PUBLIC HEARING CLOSED ON 9/14/2010. DEADLINE TO DECIDE APPLICATION IS 11/18/2010, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

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Minor clarifications within the draft Resolution were discussed and agreed upon. The following motion was made: That the Commission adopt the following Resolution to approve the project with conditions and stipulations. The motion was made by Mrs. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Voigt who had not attended the public hearing. The motion passed by a vote of 5 to 0 to 1.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 28, 2010**

Application Number: Flood Damage Prevention Application #290

Street Address: 16 Linda Lane  
Assessor's Map #9 Lot #98

Name and Address of Property Owner: Paul & Karen Clifford  
And Applicant: 16 Linda Lane  
Darien, CT 06820

Activity Being Applied For: Proposing to relocate an existing chicken coop and install a fence within a regulated area.

Property Location: The subject property is located on the southwest side of Linda Lane approximately 1,065 feet southwest of its intersection with Hanson Road.

Zone: R-2

Date of Public Hearing: September 14, 2010

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

Publication of Hearing Notices  
Dates: September 3 & 10, 2010 Newspaper: Darien News

Date of Action: September 28, 2010 Action: GRANTED WITH STIPULATIONS  
AND MODIFICATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
October 8, 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 406 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 plans, and the statements of the applicant whose testimony

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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:

5. This application is to relocate an existing chicken coop and install an associated chicken wire type fence within a regulated area. The chicken coop is about 8 feet high, and is 7'4" x 6'2". The applicant submitted a July 27, 2010 letter from Robert Frangione, PE of Frangione Engineering, LLC noting the effects of the chicken coop on the flood plain and including a design for an anchoring system for the coop.
6. At the public hearing, neighbors noted past flooding in the area where the coop was proposed, which is in the front of the property, approximately 50 feet from Linda Lane. They also noted that sheet flow of storm water runoff flows through the area in question.
7. At the public hearing, it was noted that since the chicken coop is considered an agricultural use, a permit from the Darien Environmental Protection Commission is not required, even though it may be within 50 feet of wetlands or 100 feet of Stony Brook.
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.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #290 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- H. Installation of the chicken coop and related chicken wire type fence shall be in accordance with the plans entitled:
  - Proposed Survey #16 Linda Lane prepared for Paul D. Clifford Karen C. Clifford by William W. Seymour & Associates. This plan shall be modified (can be modified by hand) to show the proposed location of the coop as determined by the property owner per the conditions herein).
  - Chicken Coop Foundation Anchor System, by Frangione Engineering, LLC, not to scale.
- I. As described by the applicant at the public hearing, this is a chicken coop for up to twelve chickens only. Mrs. Clifford explained that there is no proposal for any roosters within the coop, and none is hereby permitted. Any change to the number of chickens or other animals to be housed within the coop will require an amendment of this approval, since it would differ from the testimony presented to the Commission
- J. The existing chicken coop was constructed in a location that does not comply with the setback requirements. The structure must be relocated to comply. Since evidence was received at the

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public hearing that flooding and noticeable sheet flow of storm water runoff occurs in the proposed location of the chicken coop near the front of the property, the Planning and Zoning Commission hereby requires that the chicken coop be located generally to the west, southwest of the garage/driveway thus between the house/driveway and Stony Brook. This will be closer to the outer edge of the flood zone than the current and proposed locations of the chicken coop. Thus, the frequency and extent of flood complications will be lessened. It is up to the property owner to put the coop in an exact location which complies with this condition. Although this modified location between the house/driveway and Stony Brook would also be within the flood zone, there was no evidence submitted regarding past flooding in this area, and thus, the Commission believes that this would be an appropriate location for the proposed use.

- K. If the chicken coop is no longer used for the approved purpose for one year or more, the property owner shall contact the Planning and Zoning Office. This will allow a determination to be made whether the coop can remain within an EPC-regulated area, even though it might not be used for an agricultural use.
- L. Once the installation of the coop is complete and prior to the use of the structure and prior to the issuance of a Certificate of Zoning Compliance, the applicant shall submit verification from the project engineer or architect that all aspects of the coop have been completed in compliance with the approved plans and the flood damage prevention regulations.
- M. 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.
- N. 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.
- O. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit. Although a Special Permit must generally be implemented within one year, in this case the structure was already installed without benefit of any permits or approvals and the location is currently in violation of the Regulations, thus, the Commission hereby requires implementation of the revised, approved plan within ninety days, by December 28, 2010. This may be extended as per Section 829f.

All provisions and details of the plans 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.

Chairman Conze then read the following agenda item:

Deliberations only on any public hearings closed on September 28, 2010.

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The Commission members discussed the Kadish, 4 Robinson Street application and noted that it would be important to make sure that the drainage is properly managed.

With respect to the Stewart project at 24 Cross Road, the Commission members expressed no specific concerns. In each case, the Commission asked that the Resolutions be drafted by the staff so they can be reviewed and acted on at a future meeting.

**Approval of Minutes**

*September 7, 2010 Public Hearing/General Meeting*

The draft minutes from September 7<sup>th</sup> were discussed. The following motion was made: That the draft minutes be approved, subject to correction of typographical errors. The motion was made by Mr. Voigt, seconded by Mr. Spain, and unanimously approved.

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

The following motion was made: That the Commission consider four items under “Other Business.” These include: inclusionary zoning, the Red Cross building, the Raveis building; and the Darien Playhouse building. The motion was made by Mr. Spain, seconded by Mr. Voigt, and unanimously approved.

Inclusionary Zoning: Mr. Ginsberg recommended that the selection process for residents within housing created under the Inclusionary Zoning Regulations be modified. He would draft some proposed modifications for consideration at a November public hearing. The Commission members agreed with the staff recommendation.

Red Cross Building, 39 Leroy Avenue: Mr. Ginsberg explained that the Red Cross is proposing to make some minor interior wall modifications within its building at 39 Leroy Avenue. Since this is a Special Permit use within a residential zone, Commission review and approval is necessary. The Red Cross will still be the only user of the building, but the interior modifications are to provide some separation for the workers. Mr. Ginsberg said that the Fire Marshal has reviewed the plans and has no objection. The following motion was made: That the Commission authorize the proposed minor interior wall modifications within the Red Cross building on Leroy Avenue. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron, and unanimously approved.

William Raveis Building, 22 Old King’s Highway South: Mr. Ginsberg noted that the Planning & Zoning Commission had approved the request for the expansion of the Raveis building with a condition that the architectural changes and modification needed to be incorporated. The revised plans had been submitted to address the conditions as required within the Adopted Resolution. He reviewed those revised plans and compared them to the original plans. Commission members noted that less glass is included in the revised plan and the windows are divided by mullions and a pitched roof has been included. These were major components of the conditions of approval. Commission members reviewed the revised plans and concurred that they were in compliance with the conditions of the Resolution.

Darien Playhouse, 1077 Boston Post Road: Mr. Ginsberg explained that the owners of the Darien Playhouse building have requested a modification of the approval to allow the construction of a

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vestibule/bay window display area underneath the portion of the existing marquee. The addition would extend out approximately seven feet from the existing wall of the building and provide for additional display area for Joseph A. Bank, Clothier, the tenant. After review of the plans and some discussion, the conclusion of the Commission was that the applicant would need to first return to the Architectural Review Board and then come back to the Planning & Zoning Commission with a more detailed and specific plan. Several Commission members expressed that they were uncomfortable with the entire idea of creating enclosed space underneath the existing marquee. No action by the Commission was taken.

There being no further business, the meeting was adjourned at 10:25 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director

*09282010min*