

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
November 16, 2010**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg

RECORDER: Syat

TELEVISED BY: Channel 79

Chairman Conze called the meeting to order at 8:00 P.M. and read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #237-B, Flood Damage Prevention Application #263-B, Abigail Knott, 70 Five Mile River Road. Proposing to install an access walkway, dock, ramp and float, and perform related site activities within regulated areas. The subject property is on the north side of Five Mile River Road approximately 150 feet east of its intersection with Berry Lane, and is shown on Assessor's Map #66 as Lot #9, in the R-1/2 Zone.

Attorney Wilder Gleason was present on behalf of the applicant. He noted that Town Counsel, John Louizos, had worked with him on appropriate restrictions which meet the Commission's needs and desires regarding this property. He then distributed a one page draft, outlining these restrictions. He said that the property owner has no intention of leasing the land to any third party. Ms. Riccardo asked about the potential for licensed or unlicensed vehicles being parked at the site. Mr. Spain suggested wording such as "No vehicle requiring a license" which would then allow such vehicles as bicycles or golf carts, but would not allow automobiles. Mr. Gleason said that they can add a restriction that this property and dock shall be for use only by the owners and their invitees.

There being no further comments or questions from Commission members or the general public on this application, Mr. Voigt made a motion to close the public hearing on this matter. That motion was seconded by Ms. Cameron and unanimously approved.

At about 8:05 P.M., Mr. Conze then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations (COZR #3-2010), Put forth by the Darien Planning & Zoning Commission, Replacement of Subsection 586 (Priority Population) with a new Subsection 586 (Affirmative Fair Housing Marketing Plan), each within Inclusionary Zoning. Proposing to delete Subsection 586 of the Darien Zoning Regulations entitled, "Priority Population", and replace it with a new Subsection 586, entitled, "Affirmative Fair Housing Marketing Plan", each within the Inclusionary Zoning Section of the Regulations. As part of this proposal, if adopted, associated changes would be made to the inside cover page of the Regulations (noting the most recent amendment date); the Table of Contents; and, this amendment would be reflected within the chart in Appendix C of the Regulations (Schedule of Amendments).

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 2

Jeremy Ginsberg, Planning & Zoning Director, read aloud a brief statement. That statement was as follows:

As described in the legal notice, the proposal is to delete Subsection 586 of the Darien Zoning Regulations entitled, "Priority Population", and replace it with a new Subsection 586, entitled, "Affirmative Fair Housing Marketing Plan", each within the Inclusionary Zoning Section of the Regulations. As part of this proposal, if adopted, associated changes would be made to the inside cover page of the Regulations (noting the most recent amendment date); the Table of Contents; and, this amendment would be reflected within the chart in Appendix C of the Regulations (Schedule of Amendments).

History of Inclusionary Zoning Regulation in Darien:

Inclusionary Zoning was part of Darien Affordable Housing Advisory Commission (DAHAC) Report of October 2007. Proposed wording was included in their recommendation on pages 3.1, with the specific wording shown on pages 8.2-8.4.

Soon thereafter, a proposal was put forth by the Planning and Zoning Commission, and a public hearing held in December 4, 2007 and continued to February 5, 2008. That proposal was ultimately withdrawn at that Feb 5th public hearing.

A subsequent proposal was then prepared and submitted in April 2008. A public hearing was held on June 3, 2008 and continued to December 2, 2008. The Commission approved the zoning regulation amendments on January 6, 2009, which took effect on May 31, 2009. This is known as Amendment #25 of the Zoning Regulations.

It has recently been brought to our attention a concern with the Priority Population subsection. After some consideration, we believe that it is best to delete this subsection and create a new subsection entitled, "Affirmative Fair Housing Marketing Plan".

Therefore, the effect of this change is to eliminate all reference to priority population, and adds a section on Affirmative Fair Housing Marketing Plan.

As noted within this proposal dated October 4, 2010 and as noted within the legal notices, the following will be deleted:

586. *Priority Population*

The below market rate dwelling units shall be offered for sale or rent to income-eligible households in accordance with the following priority designations:

- a. *Individuals or families who live and work in the Town of Darien who provide volunteer emergency/life saving services for residents of the Town.*
- b. *Individuals or families who are employed by the Town of Darien or Darien Public School system.*
- c. *Individuals or families who live and work in the Town of Darien.*
- d. *Individuals or families who live in the Town of Darien.*
- e. *Individuals or families who work in the Town of Darien.*
- f. *Individuals or families who previously lived for a minimum of one (1) year in the Town and wish to return.*
- g. *All other individuals or families.*

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 3

New wording proposed:

586. Affirmative Fair Housing Marketing Plan

The applicant shall submit an affirmative fair housing marketing plan for the below market rate dwelling units. All dwelling units shall be offered for sale or rent in compliance with all applicable Federal and State Fair Housing laws.

It is very important to note that NO UNITS HAVE BEEN CONSTRUCTED PER SECTION 580 THUS FAR, SINCE ITS ADOPTION AND EFFECTIVE DATE IN 2009.

I ALSO WANT TO SPECIFICALLY NOTE THAT THIS PROPOSAL IS FULLY CONSISTENT WITH THE 2006 TOWN PLAN OF CONSERVATION & DEVELOPMENT AS AMENDED.

There are several places within the 2006 Town Plan of Conservation and Development which refers to housing diversity and affordability, and providing for a variety of housing needs. Note that as of 2000, Darien has the 3rd highest housing density in the SWRPA region behind Stamford and Norwalk. This change will allow the inclusionary regulation to remain in effect, only changing on subsection.

=====
SWRPA Comments were received—they read as follows:

Referral No. 10-66: Town of Darien – Change Subsection 586 (Priority Populations) to Affirmative Marketing Plan

Referrer and Applicant: *Jeremy Ginsberg, Director of Planning and Zoning
and the Town of Darien*

Received: *October 6, 2010*

Hearing: *November 16, 2010*

Staff Comments:

SWRPA’s adopted Regional Plan of Conservation and Development, 2006-2015 (Pg. 36), recommends, “Support efforts that create more opportunities for workforce families to purchase homes and live within the Region.” If more of these efforts are not taken “among other negative effects, the continuation of this trend will result in increasing levels of traffic congestion (as people drive longer distances between home and work) and rising salary requirements for the Region’s employers, who will have to pay more to lure employees who must live relatively far from work to afford their own house.”

SWRPA’s adopted Regional Housing Needs and Supply Assessment (2007) focuses on linkages between transportation and housing which “...is strongly endorsed...” and this “...includes the potential adjustment of existing bus routes to support workforce housing.” (Pg. 35)

=====
State of CT DEP comments were also received. They read as follows:

November 15, 2010

RE: COZR- #3-2010-Proposal to Amend Darien Zoning regulations

Dear Mr. Ginsberg:

Thank you for the opportunity to comment on the above-referenced application. We have reviewed the proposal for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) CGS Sections 22a-90 through 22a-112, inclusive] and find no inconsistencies.

Sincerely, Kristal

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 4

As part of this proposal, if adopted, associated changes would be made to the inside cover page of the Regulations (noting the most recent amendment date); the Table of Contents; and, this amendment would be reflected within the chart in Appendix C of the Regulations (Schedule of Amendments).

Conclusion

Staff recommends adopting the regulation amendment AS PROPOSED, as it is fully consistent with the Town Plan of Conservation & Development.

This regulation amendment will remove any perceived issues regarding priority populations and will keep the remainder of the inclusionary zoning regulation in place.

Mr. Spain said that he was originally on the subcommittee with Robert Finke regarding this matter. He said he sees the wisdom in avoiding misunderstanding and he is in favor of the change. Mr. Conze said the Commission's intentions were genuine when adopting this regulation and modifying it makes it more generic.

Mr. Conze then opened up the hearing to any public comments or input. There was none. There being no further questions or comments from Commission members, the public hearing was then closed.

At about 8:15 P.M., Mr. Conze then read the next agenda item:

Amendment of Special Permit Application #125-B(3), Darien Arts Center, 2 Renshaw Road.

Proposing to establish a schedule of uses of the Darien Arts Center within Town Hall. The subject building is Town Hall, which is located on the northeast corner of the intersection formed by Renshaw Road and Park Place. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

Amy Allen, Executive Director of the Darien Arts Center, was present to discuss the application. She noted that the main concern is the overlap of the drop-off and pick-up when classes end at one time and start at the same time. She has reminded patrons that the Arts Center has 14 allocated spaces in the rear of Town Hall. She noted that the main times of concern are Monday, Wednesday and Thursdays at 4:15 P.M. and she has adjusted classes so there will be more time in between classes.

Mr. Spain then asked whether there is anything substantially different between this Special Permit application and her prior application. Ms. Allen said it is substantially the same. Ms. Cameron asked if the food and beverage is new. Ms. Allen responded that that is not new.

Mr. Hutchison noted the importance of parking. Ms. Allen said that parents do need to park and should not expect to wait in the parking lot queuing for their children. Mr. Conze mentioned that additional lighting in that part of the rear Town Hall parking lot may be needed to improve safety.

Mr. Ginsberg explained that although the Darien Arts Center is currently using Room B-2 in the basement of Town Hall and rooms within the Darien Senior Center, they currently have no lease for those spaces, so those spaces are not part of this request and will have to be dealt with separately in the future.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 5

Mr. Conze then opened the Public Hearing to any comments from the general public. There were none. There being no further questions or comments from Commission members, the public hearing on this matter was then closed.

Mr. Conze then read the next agenda item:

Special Permit Application #264/Site Plan, Swizzles of Darien, LLC, 1029 Boston Post Road. Proposing to establish a self-serve frozen yogurt shop on the first floor of the existing building at 1029 Boston Post Road, in the space formerly occupied by Flowers by Jun, and perform related site activities. The subject property is on the north side of Boston Post Road approximately 40 feet east of its intersection with Brook Street, and is shown on Assessor's Map #73 as Lot #13, in the CBD Zone.

Mr. Adam Kessner and Mr. Christian Calemno, the architect, were present to discuss the proposal to establish a frozen yogurt shop at 1029 Boston Post Road. Mr. Calemno noted that the proposed space is 1,400 +/- square feet and will have a maximum of 8 seats indoors. There is a trash area in the rear alley way and they will install a dumpster if needed. There is currently no parking in the back of the building.

In response to questions, it was noted that the proposed hours of operation would be a maximum of 10:00 A.M. to 10:00 P.M. Ms. Riccardo then asked about the number of employees. Mr. Kessner responded that there will be two employees on the largest shift. They will park in a municipal parking lot and obtain parking stickers if needed.

Mr. Voigt noted the presence of Gofer Ice Cream across the street. Mr. Kessner responded that he was aware that there is an ice cream store across the street, but is optimistic that people will choose yogurt instead of ice cream.

There being no further questions or comments from the Commission, or from the general public, the public hearing on this matter was then closed.

At about 8:30 P.M., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #249-A, Flood Damage Prevention Application #279-A, Edward Brown & Yael VanHulst, 2 Baywater Drive. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas. The subject property is on the southeast corner formed by the intersection of Nearwater Lane and Baywater Drive, and is shown on Assessor's Map #55 as Lot #105 & #106, in the R-NBD Zone.

Mr. Ginsberg explained that there was previously an application for a dock on this property which was approved by the Commission. He noted that there is a pending Zoning Board of Appeals (ZBA) variance request on the ZBA's agenda for tomorrow night relative to the issue of building height and an eave.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 6

Architect Neil Hauck reviewed the proposed plans. He explained that the current house did not meet the front yard setback and was constructed at Elevation 11.8, when it should be at Elevation 13, as it is within the Flood Zone.

Mr. Hauck explained that the new house will fully conform to the front yard setbacks and the first floor will be at Elevation 13 which is at least one foot above the base flood elevation. The proposed residence will be generally the same distance from mean high water as the existing residence. Mr. Hauck said if the ZBA does not approve the requested variance, the house will be on the same footprint, but they will just have to change some roof lines. He mentioned that there is no crawl space proposed, and that water will be able to flow freely in and out underneath the house.

Mr. Ginsberg then read aloud the November 15th comments received from the State of Connecticut DEP.

Ms. Cameron asked if there is any drainage impact on the neighbors. Mr. Hauck responded that there is not and that this property is immediately adjacent to the water. He then submitted a letter received from the neighbors across the street (Winters/Holcomb), who are in support of the project.

Mr. Hutchison noted that the proposal would have the entire development at 19.8% building coverage which is very close to the 20% maximum. Mr. Hauck responded that they have fully accounted for everything and believe that they have designed the project so they do not exceed the maximum.

There being no questions or comments from the general public or any further questions from Commission members, the public hearing on this matter was then closed.

At about 8:40 P.M., Mr. Conze then read the following agenda item:

Continuation of Public Hearing regarding Business Site Plan #228-B/Special Permit, Gillen Bryan, 21 Tokeneke Road. Proposing to establish a café/restaurant on the first floor of the existing building at 21 Tokeneke Road, place garbage containers and recycling containers in the rear of the building, and perform related site activities. The subject property is on the southwest side of Tokeneke Road approximately 175 feet southeast of its intersection with Boston Post Road, and is shown on Assessor's Map #72 as Lot #46, in the CBD Zone.

Gillen Bryan and Malcolm MacLean were present to discuss the application. Mr. Ginsberg summarized the status of the application noting that it had been continued from October 26 and that since that time, the applicant has submitted: venting plans; appropriate basement plans showing that the basement will be used for storage only with some shelving and walk-in coolers and freezers; additional detail on the floor plans; and the Commission has received comments from the Fire Marshal.

Mr. Ginsberg noted that earlier this evening the Architectural Review Board (ARB) approved the plans, including the new chimney, the proposed vents, and the fence around the trash enclosure. The ARB said that the Tokeneke Road front wall sign shall be a 10 inch maximum letter height, and that there shall be no sign on the Center Street side of the building, and the Tokeneke Road front door shall be painted brown.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 7

Mr. MacLean agreed that there will be no sign in the rear of the building, and that a front sign only should be sufficient for this proposed business.

Mr. Voigt then asked about deliveries. Mr. MacLean responded that the hours of operation for the business will be a maximum of 7:00 A.M. to 7:00 P.M. They propose to take deliveries between 9:30 A.M. and 11:00 A.M. through the front door on Tokeneke Road. Mr. MacLean explained that the back entrance is not suitable for deliveries. He did confirm that there will be no food preparation in the basement. Mr. Spain then asked whether the trucks which will be delivering the food are too big for Tokeneke Road. Mr. MacLean responded that they are not using box trucks and that the proposed trucks to be used will fit within parking spaces now designated on Tokeneke Road in front of the building. Mr. Bryan added that they will probably take deliveries three days a week.

There were no further questions or comments from Commission members nor were there any comments from the general public on this application. Mr. Hutchison then made a motion to close the public hearing, which was seconded by Mr. Spain and unanimously approved.

At about 8:50 P.M., the Commission then moved into the General Meeting portion of the meeting.

GENERAL MEETING

Chairman Conze read the first general meeting agenda item:

Election of Officers (Chairman, Vice-Chairman, Secretary, SWRPA Representative)

Mr. Spain made a motion to nominate Mr. Conze as Chairman. That motion was seconded by Mr. Hutchison, and was unanimously approved.

Mr. Hutchison then made a motion to nominate Mr. Spain as Vice Chairman. That motion was seconded by Mr. Voigt and unanimously approved.

Mr. Hutchison then made a motion to nominate Ms. Riccardo as Secretary. That motion was seconded by Ms. Cameron and was unanimously approved.

Mr. Ginsberg then noted that John Marr is currently the SWRPA Representative who is appointed by the Planning & Zoning Commission. Mr. Ginsberg said that he will contact Mr. Marr to gauge his interest in serving another term as SWRPA Representative. This item will be placed on a future agenda.

Chairman Conze then read the next agenda item:

Adoption of Year 2011 meeting schedule

Mr. Hutchison made a motion to approve the 2011 Meeting Schedule as written. That motion was seconded by Ms. Cameron and was unanimously approved.

Chairman Conze read the next agenda item:

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 8

Amendment of Site Plan Application #263/Special Permit, Darien Police Station, 25 Hecker Avenue. Requested amendment for 170' monopole for public safety antenna systems.

Police Chief Duane Lovello was present to discuss the proposal. He noted that they will be going out to bid soon on the new Police Station. He explained that the existing antenna was installed in the 1940s. The proposed monopole should be 170 feet tall to accommodate for future needs. The current antenna is now 120 feet tall. He emphasized that there is no proposal to include cellular carriers on this antenna and they will not be leasing it to others. Chief Lovello confirmed that the tallest antenna will be between 12 and 22 feet above the 175 foot mark for the very highest antennas. He explained that the State of Connecticut may require a satellite dish on the roof of the Police Station for safety and security needs. Ms. Cameron made a motion to approve the request as submitted. That motion was seconded by Mr. Hutchison and was unanimously approved.

At about 8:55 P.M., Mr. Conze then read the next agenda item:

Business Site Plan #276/Special Permit, Mini of Fairfield County, 154 Boston Post Road. Request for modifications of previous approval.

Attorney Wilder Gleason was present to discuss the request as outlined in his November 4, 2010 three-page letter. He explained that there are 5 pending issues. The first was that the Fire Marshal wanted a fire hydrant and that was required by the Planning & Zoning Commission. He said that the Fire Marshal is concerned about water pressure. Mr. Gleason noted that there is now a fire hydrant on the property, and there is also one across the street at HSBC bank. He showed pictures of those hydrants. He said that the Fire Marshal sent an e-mail dated November 16th noting that if there is sufficient acceptable fire flow available, then an additional new hydrant would not be necessary. Mr. Gleason is willing to abide by that requirement, rather than the flat out requirement to install a hydrant.

The second issue was traffic control signs. Mr. Gleason confirmed that the applicant is willing to pay for new signage relative to U turns, but he is not willing to obtain the necessary State of Connecticut D.O.T. approvals, as those are off-site signs.

The third issue is service hours on Saturdays. Mr. Gleason noted that there are no other Mini service dealers nearby. Although they do not offer Saturday service now, they wish to have the ability to do so in the future. Mr. Larry Davidoff was present to explain that Land Rover has some limited service hours now on Saturdays. BMW of Darien does not have Saturday service hours now.

Mr. Gleason explained that the fourth issue was relative to the Commission-required sidewalk along the Boston Post Road frontage. Mr. Gleason explained that the proposed sidewalk requires State of Connecticut D.O.T. approval since it would be within the Route 1/Boston Post Road right-of-way. He said that they are willing to bond a sidewalk for three years and if within that three year time period, the adjacent property renovates their building and installs a sidewalk, they would be therefore required to install a sidewalk themselves. Ms. Cameron believed that a sidewalk is a good idea and noted that there is now one in front of Bertucci's which is a little further down the street.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 9

Mr. Voigt asked whether Mini would be provided a shuttle to people who drop their vehicles off for service. Mr. Davidoff responded that they give loaner cars sometimes and/or will run a shuttle to the train station. Mr. Conze believed that bonding a sidewalk is a good idea, but Mr. Spain questioned whether three years was an appropriate time frame. Mr. Gleason said they would be willing to bond the project for four years.

Mr. Davidoff confirmed that they would be willing to send in a written promise via a letter of the Callaris that they would be willing to go for a longer period of time if the Commission was willing to waive the requirement for a bond, but take a longer period via a promise.

Mr. Spain suggested an 8 year time frame with no bond required. It was noted that the regulation requires the installation of a sidewalk. Mr. Gleason noted that if the Commission wants such a letter to let him know. In response to a question, it was noted that there will be no sprinkler system within the building, but they will have certain fire separation. After some discussion, it was agreed that a Commitment Letter for 8 years would be sufficient.

Mr. Spain suggested that if the adjacent property to the east is redeveloped before that time or they have approval from the Commission to redevelop that property before that time, and that redevelopment requires a sidewalk, then Mini of Fairfield would be required to construct a sidewalk within the D.O.T. right-of-way.

Mr. Hutchinson then made a motion to approve the request by Mr. Gleason to modify the October 26, 2010 approval for Mini of Fairfield, 154 Boston Post Road to provide that:

1. a fire hydrant will not be required if the Fire Marshal is satisfied that the fire hydrant currently located on the northeast corner of the property provides sufficient acceptable fire flow of at least 2,500 gallons per minute;
2. the applicant will not be required to seek DOT approval for off-site signage relative to U turns, but shall pay for such signs to be installed;
3. Saturday service hours will be permitted;
4. the words "if required" be added relative to Condition R; and
5. the applicant shall not be required to construct a sidewalk along the property's Boston Post frontage at this time, but will submit a letter that sets forth the applicant's commitment to construct a sidewalk if during the period beginning October 26, 2010 and ending October 26, 2018 the Planning and Zoning Commission approves the construction of a sidewalk on the property that is adjacent to the eastern side of the subject property.

The motion was seconded by Mr. Spain, and unanimously approved.

At about 9:15 P.M., Mr. Conze read the next agenda item:

Amendment of Business Site Plan #90-K, Jos A. Bank, 1077 Boston Post Road, CBD Zone.
Request to construct vestibule/entryway addition to the front of the building, underneath the existing marquee.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 10

Dwight Collins, one of the property owners of 1077 Boston Post Road, was present to discuss the request. He noted that he just went to the Architectural Review Board earlier this evening.

Mr. Ginsberg then read aloud the Architectural Review Board comments as follows:
The ARB's first choice was rather than a bump-out, to install the previously approved flat glass doors. If the Planning & Zoning Commission approves a bump-out, then the 4 foot box with a flat front is preferred to the arched or bowed front.

Mr. Collins noted that the ARB liked having the door in the front. Ms. Cameron explained that she does not like the bump-out.

Mr. Ginsberg then read the remainder of the ARB comments regarding the signage. The ARB suggested removing "playhouse" from the front edge of the marquee and restoring the railing of the old marquee. They noted that there are already four Jos. A. Bank signs now and the awning with the signage needs to be removed. The ARB noted that if the Planning & Zoning Commission allows the marquee signs to change to Jos. A. Bank or another tenant, that would need ZBA variances and there would need to be a new sign for the movie information. More signs on the marquee and a new movie sign will need ZBA variances. The ARB recommended that if the ARB is no longer used for movie information, then to allow Jos. A. Bank only on the sides of the marquee and one in the windows over the Jos. A. Bank entry door.

Mr. Hutchison noted that any change is difficult here and he supports a bump-out with 4 feet being better than 5 feet. He has concern about an out-swing door. Mr. Voigt said that he would prefer to try no bump-out as he sees problems with the bump-out. He believed the signage should help the problem and suggested trying that first. Ms. Cameron confirmed that that was the Architectural Review Board's first choice as well.

Mr. Spain agreed that a 4 foot bump-out is better than a 5 foot bump-out and yielded to the Architectural Review Board on signage. Mr. Voigt asked whether the bumpout would be changing the dynamic of the building. Mr. Conze summarized by noting that he is not concerned about the Darien Playhouse sign and he complimented Mr. Golden and Mr. Collins for saving the movie theater in downtown. He, too, preferred a 4 foot bump-out.

The consensus from the Commission was a 4 ft. bump-out with a flat front, take the Darien Playhouse sign off the front of the building and allow Jos. A. Bank signage on the sides of the building, indent the proposed door which could be all glass. The Commission was amendable to a street mounted theater sign which would need a ZBA approval and they were amendable to having no more movie signage on the marquee.

Mr. Hutchison then made a motion to approve the Site Plan Amendments with that consensus description. That motion was seconded by Mr. Spain and approved by a vote of 4 to 2 with Ms. Riccardo and Ms. Cameron voting against the Site Plan amendment. Ms. Riccardo added that she was satisfied with the signage changes, but was not comfortable with the bump-out.

At 9:45 P.M., Mr. Conze then read the next agenda item:

Special Permit Application #66-L/Site Plan, Darien YMCA, 2420 Boston Post Road.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 11

Request to modify previous approval regarding architectural changes to the building.

Mr. Chris McCagg and Pat Morrissey were present on behalf of the YMCA. Mr. Ginsberg noted that the YMCA went before the Architectural Review Board earlier this evening. The ARB's comments were as follows: "These revised plans are fine and acceptable, ARB approves."

Mr. Spain then made a motion to approve the modified plans submitted by the YMCA. That motion was seconded by Mr. Hutchison and approved by a vote of 6 to 0.

Chairman Conze then read the next agenda item:

Business Site Plan #84-A/Special Permit, Bill's Auto Body, 173 Noroton Avenue.
Business Site Plan #158-C/Special Permit, Grant's Auto Body, 469 Boston Post Road.

Request to modify previous approvals to allow towing operations with towing equipment to be stored on-site.

Mr. Ginsberg explained the current situation and referred to a letter that Dave Keating sent to Troop G in Bridgeport dated September 16, 2010. Mr. Ginsberg noted that the State of Connecticut is requiring that these towing operators store both light and heavy duty wreckers on site. Prior P&Z approvals do not allow such. After some discussion, Mr. Ginsberg was instructed to write a letter to the State noting that the Planning & Zoning Commission is in the process of reviewing the situation regarding Grant's Auto Body and Bill's Auto Body and asked that the State give the Commission additional time to review these applications.

Mr. Conze noted that he would like the applicants to appear before the Commission to explain the situation in more detail.

At about 10:00 P.M., Mr. Conze then read the next agenda item:

Discussion, deliberation and possible decisions regarding the following:

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.

P&Z had some minor comments on findings #3 and #5. Mr. Ginsberg noted that there was a change to the date of the publication of notice of action. Mr. Hutchison then made a motion to adopt the Resolution as amended. Mr. Spain then seconded that motion which was approved by a vote of 6 to 0. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 16, 2010

Application Number: Coastal Site Plan Review #170-B
Flood Damage Prevention Application #291

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 12

Land Filling & Regrading Application #77-B

Street Address: 4 Salem Straits (aka 4 Hawthorne Road)
Assessor's Map #62 Lot #84

Name and Address of:
And Property Owner: A.C. & Mandi Morgan
4 Salem Straits (aka 4 Hawthorne Road)
Darien, CT 06820

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

Activity Being Applied For: 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.

Property Location: 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.

Zone: R-1.

Date of Public Hearing: October 26, 2010

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

Publication of Hearing Notices
Dates: October 15 & 22, 2010 Newspaper: Darien News

Date of Action: November 16, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
November 26, 2010

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 13

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The application is 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.
2. At the public hearing, it was noted that a similar application was submitted to and approved by the Commission in 2007. The rain garden proposed as part of that application has been installed, and is currently functioning. However, certain aspects of that approval were not implemented, and that permit expired. The subject application includes the request to construct a fixed pier and fixed platform, which was not part of the 2007 application. The 3.5' x 60' pier will have a leader descending to a 4' x 8' fixed platform. The pier and platform received approval from the State of Connecticut Department of Environmental Protection (DEP) and the US Army Corps of Engineers.
3. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
4. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
5. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. 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.
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
9. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 14

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #170-B, Flood Damage Prevention Application #291, and Land Filling & Regrading Application #77-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

A. Construction and site activity shall be in accordance with the following plans as submitted to the Commission:

- Zoning Location & Topographic Survey 4 Salem Straits prepared for A.C. Morgan IV Mandi Morgan, by William W. Seymour & Associates, dated June 20, 2007 and revised to September 14, 2007.
- Site Plan prepared for Morgan Residence #4 Salem Straits, by LBM Engineering, scale 1"=30', dated September 12, 2007.
- Front Landscape Plan Morgan Residence 4 Salem Straits, by Daniel Sherman Landscape Architect, dated Aug 21, 2007, Drawings L-1 & L-2.
- Existing & Proposed Conditions Map prepared for AC Morgan IV Mandi Morgan 4 Salem Straits, by William W. Seymour & Associates, dated October 14, 2003 and last revised November 2, 2007, Sheet 3 of 4.
- Proposed Plan & Profile Map prepared for AC Morgan IV Mandi Morgan 4 Salem Straits, by William W. Seymour & Associates, dated October 14, 2003 and revised November 2, 2007, Sheet 4 of 4.

The Site Plan shall be revised to include a north arrow.

A revised planting/landscaping plan shall be submitted for review and action by the Planning & Zoning Director prior to the issuance of a Zoning or Building Permit for the pool or boat house. This plan shall include plantings along the face of the driveway wall and plantings on the saltwater side, in front of the pool in order to minimize any impacts on coastal views from the water toward the land. The plantings should be salt-tolerant.

- B. During the filling, regrading, and site work, the applicant shall utilize the sediment and erosion controls illustrated on the plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including the tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- D. Prior to any construction activity on-site, the applicant shall get Health Department approval to abandon the existing septic system, and provide a copy of that approval to the Commission staff.
- E. Prior to the issuance of a Certificate of Zoning Compliance for the proposed 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 and/or the Darien Land

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 15

Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 4 Salem Straits to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well, within the next 60 days of this approval and prior to the start of any filling or regrading work.

- F. The applicant shall install the drainage system as shown on the submitted Site Plan (in Condition A, above). The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies). If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. As part of the Commission's 2007 approval, the following condition was included. That condition is included in this approval as well: "The applicant's representative noted during the public hearing that there will be no blasting performed as part of this project. He noted that some ledge may be chipped away or broken apart, but any request for blasting shall require an amendment of this approval."
- H. As part of the Commission's 2007 approval, the following condition was included. That condition is included in this approval as well: The applicant shall have the tidal wetlands delineation and the location of the high tide line formally approved by the State of Connecticut DEP prior to the start of any work activity. In all locations, the proposed stone wall shall be at least two feet away from the tidal wetlands. After construction is complete, the location of the stone wall, tidal wetlands and high tide line shall be shown on "as-built" plans.
- I. Once the project is complete, and prior to November 15, 2011, the applicant shall certify in writing and/or photographs, and with an 'as-built' survey map that all work has been properly completed in accordance with the approved plans. This shall include written certification for the project's professional engineer that the drainage facilities have been installed according to the approved plans.
- J. 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.
- K. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- L. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (November 15, 2011).

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 16

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Mr. Conze read the next agenda item:

Coastal Site Plan Review #229-A, Flood Damage Prevention Application #293, Foster Kaali-Nagy, 125 Five Mile River Road. Proposing to install a pier, ramp and float, and perform related site activities within regulated areas.

Mr. Spain noted that the request for docks at 125 and 129 Five Mile River Road should be considered together as they could have shared a dock in this specific instance. He preferred that these applications be withdrawn and they then come in with one shared application. Ms. Riccardo agreed. Mr. Conze disagreed, noting that it would not be fair to the property owners. Mr. Voigt shared the concerns of the others regarding the proliferation of docks in Town. Ms. Riccardo confirmed that the 2006 Town Plan of Conservation and Development encourages the sharing of docks. Mr. Spain mentioned that the opportunity for a common dock to be shared between two properties does exist in this specific instance.

Regarding the proposal for a dock at 125 Five Mile River Road, Mr. Hutchison made a motion to adopt the Resolution as drafted by staff. That motion was seconded by Mr. Voigt. Voting in favor of the motion were Mr. Conze, Mr. Hutchison and Mr. Voigt. Those voting against the motion were Ms. Cameron, Ms. Riccardo and Mr. Spain. The vote was thus 3 to 3.

Mr. Ginsberg then said that he will determine what the next step is on this, and what the 3-3 vote means.

Coastal Site Plan Review #230-A, Flood Damage Prevention Application #294, KRK, LLC, 129 Five Mile River Road. Proposing to install a pier, ramp and float, and perform related site activities within regulated areas.

Regarding the proposal for a dock at 129 Five Mile River Road, Mr. Hutchison made a motion to adopt the Resolution as drafted by staff. Mr. Voigt seconded that motion. Voting in favor of the motion were three Commission members: Mr. Hutchison, Mr. Voigt and Mr. Conze. Voting against the motion were three Commission members: Ms. Cameron, Ms. Riccardo and Mr. Spain.

The vote was 3-3, and again, Mr. Ginsberg will determine the next appropriate steps.

Discussion, deliberation and possible decision regarding the following (if public hearing is closed):
Proposed Amendments to the Darien Zoning Regulations (COZR #3-2010), Put forth by the Darien Planning & Zoning Commission, Replacement of Subsection 586 (Priority Population) with a new Subsection 586 (Affirmative Fair Housing Marketing Plan), each within Inclusionary Zoning. Proposing to delete Subsection 586 of the Darien Zoning Regulations

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
NOVEMBER 16, 2010
PAGE 17

entitled, "Priority Population", and replace it with a new Subsection 586, entitled, "Affirmative Fair Housing Marketing Plan", each within the Inclusionary Zoning Section of the Regulations.

Mr. Ginsberg believed that a formal, written Resolution from the Commission was not necessary since this is a very simple proposal to change one subsection of the Regulations. However, the Commission must find that the proposal is consistent with the 2006 Town Plan of Conservation and Development before adopting any Zoning Regulation amendment.

Mr. Hutchison confirmed that any housing must comply with the Fair Housing Act. Mr. Spain agreed, noting that the proposed Amendment is a wiser path. Mr. Spain then made a motion to adopt the wording in subsection 586 as proposed and made a finding that this new wording is consistent with the 2006 Town Plan of Conservation and Development as amended.

It was moved to approve this amendment with an effective date of Sunday, November 28th. That motion was seconded by Mr. Voigt and approved by a vote of 6 to 0.

Mr. Conze read the next agenda item:

Approval of Minutes

November 2, 2010 Public Hearing

Ms. Cameron made a motion to approve the November 2nd meeting minutes as written. That motion was seconded by Ms. Riccardo and approved by a vote of 6 to 0.

November 9, 2010 Public Hearing

Mr. Spain made a motion to approve the minutes as written. That motion was seconded by Ms. Cameron and approved by a vote of 6 to 0.

Deliberations only on any public hearings closed on 11/16/2010.

Mr. Conze instructed Mr. Ginsberg to draft resolutions for the closed Public Hearing matters heard earlier this evening as they all seem fairly straightforward.

There being no further business, the meeting was adjourned at 10:15 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

11162010min