

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
March 31, 2009**

Place: Room 119
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Hutchison, Finke

STAFF ATTENDING: Ginsberg, Keating

PUBLIC HEARING

Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #221, Robert & Kitty Lavin, 480 Middlesex Road. Proposing to fill and regrade adjacent to an existing residence to create a flat yard area and to perform related site development activities. The subject property is located on the east side of Middlesex Road, approximately 350 feet south of its intersection with Saddle Ridge Road, and is shown on Assessor's Map #6 as Lot #158 in the R-2 Zone. *PUBLIC HEARING OPENED 2/24/2009, AND CONTINUED TO 3/24 AND 3/31. DEADLINE TO CLOSE PUBLIC HEARING IS 3/31, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

NOTE: In the discussions regarding the steepness of the grade, the measurement of the slope was frequently referred to as being one to one or two to one (1:1 or 2:1), which is sometimes misunderstood as one two one or two two one. For clarity and to avoid misunderstanding, these minutes refer to the slope as the vertical (rise) compared to the horizontal (run). Thus, a one-on-one slope is one foot of vertical rise for each one foot of horizontal run. A one-on-two slope is one foot of vertical rise for each two feet of horizontal run.

Professional Engineer Robert Oley of Land-Tech Consultants explained that the last time the Commission met to discuss this matter was on February 24th. Additional information needed to be obtained regarding the ability of the ground to absorb the water and to address some concerns of neighbors. Since that time, a test hole has been dug on-site and the neighbors' concerns have been incorporated into the plans. The deep test hole was dug on March 9th. Mr. Oley said that as recently as March 23rd he met with the neighbors' consulting engineer, Craig Flaherty.

Mr. Oley reviewed the changes that have been incorporated into the plan. These include:

- on the high end of the property, the east end of the site, a one-on-one slope has been designed. The slope will cut into the existing embankment and will be stabilized using a reinforced material to promote the growth of vegetation to hold the soil in place;
- the underground drain has been relocated to the upper part of the steep cut in order to pick up storm water coming onto the Lavin property and before that water can run down the proposed one-on-one slope;
- an infiltration area has been added to the bottom of the site, not far from Middlesex Road;
and

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- a new catch basin has been proposed in the southwest corner of the site so that it will collect water and then be connected to the storm drainage system in the street.

Mr. Oley noted that the catch basin is designed to be in the low portion of the site and that only the overflow water from the drainage system would be piped into the Town drainage pipes in the street. This will avoid the free flow of water in an uncontrolled manner toward the street. A connection to the Town storm drainage system in the street requires a permit from the Department of Public Works (DPW), and will only be granted if it is required by the Planning & Zoning Commission. Mr. Oley confirmed that they have also changed the swale along the south boundary to become a berm along the south boundary. Instead of a trench with a lower grade, it will be fill material with a higher grade. This berm will minimize the likelihood of water from the Lavin property running onto the neighbor's property to the south. He said that some water from the Lavin property now moves toward the Starr property to the south, but the berm would intercept most of that water. At present, about a third of an acre of surface water runs from the Lavin property to the Starr property. Mr. Oley also explained that some of the water ponds up against the stone wall on the Starr property and then either soaks into the ground, or moves along the edge of the wall and eventually flows down toward the street. Mr. Oley said that one of the responses to the neighbors' concerns has been to modify the proposed one on three grade to a one on 3½ grade in the area that is on the downslope side of the proposed flat area on the Lavin site. He also noted that additional plantings would be installed to separate the two properties. The plantings would include evergreen trees and shrubs. In response to questions, Mr. Oley said that the recently regraded site is experiencing some rill erosion after the trees were removed. He said that the plan for the additional regrading does include special measures to stabilize the ground with special planting mats and new vegetation.

Mr. Oley said that the regrading project will need to take place when no rain is in the forecast for at least a week. He said that silt fences will still need to be installed as a precaution, but the extensive regrading needs to be done during dry weather. He said that the erosion control blankets and special mats have been used successfully in other cases to stabilize the steep slope embankments. He said that it would be an acceptable condition to require the applicant to provide as-built maps and drawings to illustrate the finished grade and the installed drainage system and that the soil has been properly stabilized.

Mr. Oley said that the proposed 1:1 (one-on-one) slope on the uphill side of the flat area would required the installation of a specially seeded blanket to cover the soil. This special seed would include wild flowers and he has used it successfully on another similarly steep slope site in Westport.

Jenn Starr of 460 Middlesex Road submitted a letter dated March 30, 2009 from Kenneth W. Shook of Bartlett Tree Experts. Mr. Shook explains that the tree removal has caused erosion of the soil and drainage problem and that only a hand full of new trees will be installed. Mrs. Starr said that she is fearful that the proposed regrading is for a future house site and she wondered what the drainage conditions would then be. She said that the plan needs to include a line of substantial trees along the property line and preserving the trees that are near the common boundary line.

Craig Flaherty, Professional Engineer from Redniss & Mead, represented Mrs. Starr and said that some of his concerns have been addressed by Mr. Oley, but there are still some concerns that have not been resolved. He said that Section 850 of the Darien Zoning Regulations concerns earth

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removal and regrading and he noted that the key concerns to the Commission include the drainage along the southerly border line with the neighbor and the drainage to be directed westerly into the Town drainage system. He said that the Department of Public Works does not allow connection into the Town's drainage system unless it is required by a land use agency. Mr. Flaherty also noted that the proposed one-on-one slope is not permitted by Section 854c of the Regulations. Section 854c allows a maximum slope of one foot of vertical change for every two feet of horizontal distance. This is a one-on-two slope. The proposed one-on-one slope would allow one foot of vertical change for every one foot of horizontal distance. Mr. Flaherty noted that the applicant included in his drawings, a cross section illustration of an alternative plan that would include a retaining wall and a one-on-two slope just above the proposed flat area. Mr. Flaherty said that this would be the most that the Planning & Zoning Commission could approve.

Mr. Flaherty noted that the trees along the Lavin's southerly border line will be substantially impacted by the extensive cutting and filling and regrading that will take place. He questioned whether these trees would be able to survive when there is so much manipulation of the grade adjacent to the tree roots. He said that the removal of the large amount of trees from the Lavin property has already exposed the trees on the Starr site to excessive winds that had never been experienced before because those winds had been buffered by the trees on the Lavin property. Mr. Flaherty noted that he has not focused on the temporary impacts during the regrading work because he disagrees with the design of the proposed finished product. He said that due to the steep slopes involved, the erosion controls during the site disturbance process cannot be relied upon. He said that the first thing that the applicant would need to do would be to install the berm to protect his client, Mrs. Starr, to the south. He said that the proposed filling and regrading would go right up to the tree trunks and this means that one-third or more of the root system of the trees would be covered. The trees in that area would probably not survive.

Mr. Spain noted that the trees in the vicinity of the Lavin / Starr boundary probably have not had enough time to acclimate to the recent stress caused by the removal of nearby trees and the regrading that has already taken place. Mr. Flaherty said that the Commission should take cognizance that work on one site cannot be allowed to damage the trees on another site. He also noted that the alternative to include a vertical wall will reduce the steepness of the cut above the proposed flat area to a slope of one on two which would comply with the Regulations.

Robert Oley of Land Tech Consultants said that his client would be glad to add more trees along the southerly boundary line. Mr. Conze noted that the proposed pipe that runs parallel to the southern Lavin boundary line should be relocated about 10 feet in a northerly direction so that it will be farther away from the neighbor and, therefore the regrading could be farther away from the trees that are on or close to the property line. Mr. Oley said that doing so would be easy because it is a conveyance pipe to allow water to move down the steep slope through a controlled system rather than on the surface. Mr. Oley did say that the proposed one-on-two slope above the flat area could be accomplished but, it pushes the slope closer to the neighbor to the east and substantially increases the cost of the project because the wall will be expensive to construct. He did say that a polypropylene mat and turf reinforcement systems have been utilized to stabilize steep slopes of one-on-one. Mr. Hutchison said that he did not think that the Commission should waive the requirement specifying a maximum one-on-two slope. Mr. Finke said that the Commission cannot waive that requirement. It would need a variance from the Zoning Board of Appeals. Mr. Conze asked Mr. Oley if it would be better to rethink the entire project or if it would be better to include

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the one-on-two slope and the retaining wall and the relocation of the pipe and fill ten feet farther away from the neighbors. After consultation with his client, Mr. Oley said that the use of the one-on-two slope and the retaining wall and the location of the pipe and fill would be incorporated into the plans.

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

Chairman Conze read the following agenda item:

Subdivision Application #323-A, Coastal Site Plan Review #222-A, Flood Damage Prevention Application #244-A, Land Filling & Regrading Application #176-A, James & Katherine Kane, 147 Five Mile River Road. Proposal to raze the existing residence, garage and cottage; abandon the existing septic systems; subdivide the subject property; construct one new residence on each of the two properties and a pool on one of the properties; tie the new residences into the existing sanitary sewer system; and to perform related site development activities within regulated areas. The subject property is located on the east side of Five Mile River Road approximately 1,500 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #9 in the R-1/2 Zone.

Attorney Wilder Gleason represented the applicants and explained that he had discussed this with the Commission on a preliminary basis. The applicants own two pieces of property. There is one house located at 143 Five Mile River Road and a second property at 147 Five Mile River Road contains two separate houses. Previously approval had been granted by the Commission to knock down the two houses at 147 and to build one large house, a swimming pool, and a large, detached storage garage. At the time that the approval was obtained, it was believed that this southerly section of Five Mile River Road was not a "street" as defined by the Darien Zoning Regulations. Since that time, additional research has discovered a June 13, 1967 letter from then Town Planner, John Hayes, indicating that the southerly portion of Five Mile River Road was accepted by the Commission as a street for purposes of subdividing another property in the vicinity. Based on that letter, the owners have reconsidered their eventual use of the property and would like the Commission to reconsider reconfiguring these two parcels of land so that three building lots would result.

Mr. Gleason explained that they have obtained a Letter of Conditional Approval from the current Director of Planning, Jeremy Ginsberg, that they can modify the dividing line between 143 and 147 provided they first remove a portion of the existing house that connects the house at 143 to the garage. By doing so, the entire house would be on a portion of the reconfigured lot that is at least 100 feet wide. They must also abandon the septic system and connect to the sanitary sewer. Once that work has been done, they will be able to file the map and reconfigure the dividing line between 143 and 147. Then the applicant proposes the second phase of the development plan which is to subdivide the enlarged parcel at 147 into two separate building lots. Each lot would accommodate one, single family house and one of the lots would have a swimming pool.

The Subdivision Regulations indicate that when the street conditions do not meet the current street improvement requirements (such as in this case), the Planning & Zoning Commission can require

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that the street improvements be upgraded to satisfy the current requirements, or, if not brought up to comply with all street improvement standards, then the Commission must specifically waive some or all of those standards. Mr. Ginsberg indicated that a March 6, 2009 memorandum from the Fire Marshal had been received expresses concern over the narrowness of Five Mile River Road and also indicating that creating a standard 50 ft. wide right-of-way and 28 +/- foot wide paved portion would not be necessary to meet fire safety requirements. Attorney Gleason said that he had met with the Fire Marshal and discussed improvements that would substantially increase safety aspects. These include: creating a hammer head turnaround so that fire and other emergency vehicles will have a large area to turn around; the installation of a fire hydrant; and widening the street from 13 feet of pavement width to 20 feet of pavement width for a distance of approximately 190 feet along the property. The two areas adjacent to the neighbors to the north and the neighbors to the south would not be 20 feet wide of pavement but rather a transition area would flare from the existing 13 feet of pavement width to the proposed 20 feet of pavement width. Mr. Conze suggested that the additional 20 foot wide area be set aside as a right-of-way so that at some point in the future, if the neighbors to the north or south increase the width of their pavement from 13 feet to 20 feet, then the flared portion can be eliminated and more of the road can meet the 20 foot wide paved criteria. Mr. Gleason indicated that they could reserve the area for road widening purposes in the future, but they did not want to create an easement to encumber the property. He did submit a written request asking for waivers of many of the standard subdivision requirements and road improvement requirements. He noted that the written request is a mandatory part of the waiver process.

Mr. Spain noted that this is a southerly tip of a peninsula and you cannot get to this land any other way but through the existing street named Five Mile River Road. Mr. Gleason noted that a two-thirds vote of the entire Commission is necessary to grant a waiver.

Mr. Gleason explained that the plans and drawings that had been submitted to the Commission have been slightly revised by the architect to include an enlarged mudroom on one of the new houses. He submitted a revised version of that plan. Mr. Gleason noted that they had obtained approval from the Environmental Protection Commission (EPC Permit #5-2009). He also noted that there is a revised site plan. He submitted copies of Sheet 1 of 1 which is dated 2/26/09.

Professional Engineer, Leonard DeAndrea submitted a chart that compared the previous approval with the new project. The new project has less impervious surface and less building coverage than had been approved. He explained the revised drainage design for the separate lots and discussed the conceptual plan that shows two separate driveways, one for each of the proposed lots. He noted that most likely they will have one common driveway, but their engineering analysis utilizes the two driveway scenario (which would still have less impervious surface than the previously approved plan). He said that the flood zone goes through a part of the site, but that the driveways would be dry during a flood condition. He also reviewed the hammer head turnaround within the Five Mile River Road street area. This will provide a sufficient area for emergency vehicles to turn around.

Matthew Popp of Environmental Land Solutions reviewed the modified plans and told the Commission that the revised plans will have no impact on the natural resources of the area. He said that two rain gardens are proposed, one on each of the proposed lots.

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Attorney Gleason submitted a copy of the 2007 Resolution of the previous approval. He said that the applicant has discussed the project with the neighbors and they have all signed off indicating that they have no objection to the proposal.

There were no comments from the public. The Planning & Zoning Commission believed that it was necessary that the treatment of the paved portion of the street be further investigated. Accordingly, they decided to continue the public hearing on this matter. The motion to continue the hearing on April 28, 2009 at 8:00 p.m. in the Town Hall was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Mr. Conze read the following agenda item:

Coastal Site Plan Review #242, Flood Damage Prevention Application #271, Land Filling & Regrading Application #222, Marta LaRock, 2546 Boston Post Road. Proposing to construct an in-ground pool with associated grading and landscaping and perform related site development activities within regulated areas. The subject property is on the south side of Boston Post Road, approximately 400 feet west of its intersection with Weeds Landing, and is shown on Assessor's Map #54 as Lot #2 and is located in the R-1/2 Zone.

Phil Katz represented the applicant and explained that the project involves the construction of a swimming pool in the southwest portion of the property. There is a storm drainage pipe that goes from Boston Post Road through the site to Holly Pond. The construction is not near that pipe. Some of the filling and regrading for the swimming pool is proposed within the flood hazard zone, thus, the need for the Planning and Zoning Commission approval. Mr. Katz said that a detailed sediment and erosion control plan has been developed, so that during construction there will be no adverse impacts on the resources adjacent to Holly Pond. He explained that the extra soil material excavated for the swimming pool will be removed from the site. Approximately 150 square feet of land area within the flood zone will be covered with five cubic yards of fill within the flood zone.

Mr. Katz said that they have received approval from the Environmental Protection Commission (EPC). The EPC approved the revised plans dated January 13, 2009, which showed the pool 72+/- feet from Holly Pond. The EPC approved this location because it is the least impacting plan. However, some of the required regrading would be within the flood hazard zone, thus requiring P&Z approval. Mr. Katz then reviewed the cross-section drawings. He noted that they would be removing approximately 100 cubic yards of fill from the knoll area. This is to accommodate a swimming pool which, at its deepest, will be eight feet deep. Most of the fill will be removed from the site. Access to the construction site will be accomplished through the existing driveway, rather than being near Holly Pond. Mr. Hutchison cautioned about the use of the driveway for hauling heavy trucks, because the driveway is located on or adjacent to the old storm drainage pipe.

Mr. Ginsberg read the State of Connecticut DEP comments received in a March 25, 2009 e-mail. They have no comments regarding the proposal. Mr. Ginsberg also confirmed that the EPC did approve EPC #1-2009 for this project.

Ms. Linda Fritsch of 2560 Boston Post Road submitted a letter dated March 31, 2009 with attachments. She indicated that her house, and particularly the important living spaces of her house, are located near the proposed pool and pool terrace to be installed. She said that the

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installation of large Norway spruce trees would substantially impact her view of Holly Pond and the shoreline. She believed that smaller bushes and lower shrubs should be planted rather than fast-growing, tall evergreen trees. She added that the pool should be moved farther away from the property line, toward the center of the LaRock property, and that the pool equipment and heater, which would be close to the Fritsch master bedroom, is a noise concern. She said that the equipment should be relocated to be on the south or east side of the pool or to the northwest of the LaRock house. Mr. Katz said that the relocation of the equipment would require that a platform be built to assure that the equipment is at or above the flood level.

Steve Hamson said that moving the pool equipment to the Holly Pond side of the pool would make it more noticeable. He did say that evergreen shrubs could be used rather than the large trees proposed on the plans. He noted that the existing buffer area of plants near Holly Pond would remain unchanged.

Mr. Spain said that the planting of large trees along the Fritsch-LaRock property line would limit the views and the sun that gets to the neighbors. He suggested using deciduous trees and smaller shrubs, rather than the large evergreen trees proposed.

Mr. Katz said that the pool location is as far out of the flood zone as possible. Mrs. Fritsch said that the pool equipment should not be located near her outdoor living space, but should be located on the southeast of the pool, rather than the southwest part of the property. Mr. Hamson said that possibly the pool equipment could be moved to the northwest of the pool, and closer to the LaRock house, and that location will also need to be elevated on a platform.

There being no further comments from Commission members or the general public, the following motion was made: That the Commission close the public hearing on this matter. That motion was made by Mr. Finke, seconded by Mr. Spain and unanimously approved.

Mr. Conze then read the following agenda item:

Land Filling & Regrading Application #223, Nassau Mansfield Avenue, LLC, 49 Mansfield Avenue. Proposing to regrade within fifteen feet of the north and south property lines in conjunction with the construction of a new single-family residence and to perform related site development activities. The subject property is located on the west side of Mansfield Avenue approximately 200 feet north of its intersection with Sedgwick Avenue, and is shown on Assessor's Map #17 as Lot #14 in the R-1/3 Zone.

Architect Neil Hauck explained that the project is to raze the existing residence and construct a new residence. Some minor regrading will be necessary within fifteen feet of both the north and the south property lines to accommodate this project. A Special Permit from the Planning and Zoning Commission is necessary for this filling and regrading. He explained that they have already received a variance from the Zoning Board of Appeals for lot width. The new house will be closer to the street than the old house, and will have an expanded turnaround area to avoid backing into Mansfield Avenue. Mr. Hauck said that the garage of the new house will be located at the basement level, with lawn above the garage level. He said that the drainage system has been designed so that an on-site stormwater retention system will be added. To accomplish the goals, they will need to slightly regrade the driveway along the northerly property line, and three trees along that property

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line will have to be removed. They have discussed the removal of the trees with the neighbor, and she is in favor of the removal of these dead trees. Along the south property line, a swale will be constructed to direct water to the wooded wetland to the west, rather than to the neighbor to the south.

Planning Director Jeremy Ginsberg noted that Mansfield Avenue is a State highway, and that if any work is proposed within the right-of-way of Mansfield Avenue, then the property owner would have to obtain a permit from the State of Connecticut Department of Transportation. Mr. Hauck noted that they will be removing the hedgerow along the street to improve sight lines, as vehicles exit the driveway.

Mr. Ted Hawkins explained that he lives two doors away, and said that he is speaking on behalf of the immediate neighbor who is in favor of removing the dead trees. He said that he wants to commend the applicant for involving the neighbors in the early design process of this project.

There being no further comments from Commission members or the general public, the following motion was made: That the Commission close the public hearing on this matter. That motion was made by Mr. Spain, seconded by Mr. Finke and unanimously approved.

At about 10:05 P.M., Mr. Conze then read the following agenda item:

GENERAL MEETING

Modification of Coastal Site Plan Review #233, Flood Damage Prevention Application #261, Mitchell & Kerry Ross, 10 Nickerson Lane, R-1 Zone.

Proposal to add an entry door from the rear yard directly into the mudroom area; to relocate the proposed HVAC units; and to reconfigure the pool equipment concrete pad, within a regulated area.

Mr. Ginsberg reviewed the March 26, 2009 letter from Michael Palumbo of ERI. This request involves the relocation of the air conditioning equipment and the installation of a door from the backyard into the basement of the house. Mr. Ginsberg noted that EPC staff has reviewed this request and approved it administratively. Since some of the work is within the 100 foot critical area adjacent to Holly Pond, he asked the Commission if they wished to hold a public hearing on this matter, or act administratively. The Commission members reviewed the materials and concluded that the requested modifications are minor. The motion to approve the modifications was made by Mr. Finke, and seconded by Mr. Spain and unanimously approved.

Mr. Conze then read the following general meeting agenda item:

Brief discussion regarding uses within the DOR-1 and DOR-5 Zones.

Zoning Enforcement Officer David Keating said that this item was placed on the agenda because there had been some question regarding how many tenants are allowed within the existing office buildings within the DOR-1 and DOR-5 zones. At one point, the Zoning Regulations limited the number of tenants to three. It allowed for up to six tenants via Special Permit from the Planning & Zoning Commission. Mr. Keating said that he had thoroughly reviewed the records and concluded that, in 1997, the Commission eliminated those specific restrictions from the Zoning Regulations

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and indicated that as long as the use was an Executive and Administrative Office use that did not involve any visits from the local public, that there would be no limit on the number of tenants within any of those office buildings. Mr. Conze noted that he was on the Commission in 1997, and confirmed the intent of this change to the regulations. Commission members concurred with Mr. Keating's conclusions.

Mr. Conze then read the following general meeting agenda item:

Deliberation and possible decisions regarding the following two items:

Coastal Site Plan Review #241, Flood Damage Prevention Application #270, Ian Duncan, 87 Nearwater Lane. Proposing to construct a pier, dock and float and perform related site development activities within regulated areas. The subject property is on the west side of Nearwater Lane, approximately 400 feet south of its intersection with Nickerson Lane, and is shown on Assessor's Map #52 as Lot #4 and is located in the R-1 Zone.

The following motion was made: That the Commission not read the entire draft resolution aloud, as each member has had an opportunity to read the draft prior to the meeting. That motion was made by Mr. Finke and seconded by Mr. Spain and unanimously approved. Commission members reviewed the draft resolution, and the following motion was made: That the Commission adopt the following resolution as written. That motion was made by Mr. Finke, seconded by Mr. Spain, and all voted in favor except for Mr. Hutchison, who abstained. The motion passed by a vote of 3-0-1. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 31, 2009**

Application Number: Coastal Site Plan Review #241
Flood Damage Prevention Application #270

Street Address: 87 Nearwater Lane
Assessor's Map #52 Lot #4

Name and Address of Applicant's Representative: D. Bruce Hill, Esq.
Law Office of Bruce Hill, LLC
23 Old King's Highway South
Darien, CT 06820

Name and Address of Property Owner:
And Applicant: Ian M. Duncan
87 Nearwater Lane
Darien, CT 06820

Activity Being Applied For: Proposing to construct a pier, dock and float and perform related site development activities within regulated areas.

Property Location: The subject property is on the west side of Nearwater Lane, approximately 400 feet south of its intersection with Nickerson Lane.

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Zone: R-1 Zone

Date of Public Hearing: March 24, 2009

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

Publication of Hearing Notices

Dates: March 12 & 19, 2009

Newspaper: Darien News-Review

Date of Action: March 31, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 9, 2009

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted 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.
- 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 owner proposes to construct a 48' +/- x 4' fixed pile and timber pier leading to a 16' +/- x 3' wide ramp and a 10' x 10' float and perform related site development activities within regulated areas. The proposed 10' x 10' float will replace a previous float in this area. Timber steps with a foundation will be placed landward of the pier.
2. On December 24, 2008, the State of Connecticut DEP approved the plans to remove the one derelict piling; and to construct the timber access stairway, a fixed pier, aluminum ramp; and float with float stops. A copy of that permit approval (Permit #200502347-TS) has been submitted for the record, and is hereby incorporated by reference. As part of this application referral process, the DEP noted in a March 12, 2009 e-mail that since they have issued a permit for this project, they find no inconsistencies with the Connecticut Coastal Management Act.
3. The Darien Environmental Protection Commission (EPC) approved this project as part of EPC #7-2009 on March 4, 2009. The Commission approved that permit with the following conditions: 1) The proposed piles to be installed shall be an environmentally friendly material to be reviewed by staff prior to installation; 2) The applicant shall provide a defined foot path to

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access the dock walkway and minimize impact to surrounding vegetation; 3) The Commission shall file a notice of this decision on the Darien Land Records; and 4) No equipment or material, including, without limitation, fill, construction materials, debris, or other items shall be deposited, placed, or stored in any wetland or watercourse on or offsite unless specifically authorized by this permit. That conditional approval is hereby incorporated by reference.

4. The Army Corps of Engineers also approved the subject request for a ramp, dock, and float, in a letter dated November 4, 2008.
5. The Darien Land Trust sent a one-page letter dated March 24, 2009 noting their concerns with the subject application. The Land Trust owns 77 Nearwater Lane, and has an easement down to Holly Pond.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. 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.
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.
9. 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.
10. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #241 and Flood Damage Prevention Application #270 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - “Proposed Residential Pier, Ramp, & Floating Dock, Holly Pond-Long Island Sound; Ian M. Duncan, 87 Nearwater Lane, Darien, CT” in five (5) sheets dated 10/27/05 and 10/28/05, and with Sheet 2, 3 and 4 revised 02/10/09 and with Sheet 5 revised 05/06/08..
- B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

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- C. 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. Prior to the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.
- D. Prior to March 30, 2010, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- E. 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.
- F. 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.
- G. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (March 30, 2010). This may be extended as per Section 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Conze then read the following general meeting agenda item:

Proposed Amendments to the Darien Zoning Regulations put forth by the Planning & Zoning Commission. Proposal to allow blade signs in the Central Business District (CBD), Neighborhood Business (NB) and Designed Commercial (DC) zones. Blade signs are signs that are affixed to and project from a building.

The following motion was made: That the Commission not read the entire draft resolution aloud, as each member has had an opportunity to read and review the draft prior to the meeting. That motion was made by Mr. Spain, seconded by Mr. Hutchison, and unanimously approved. Commission members believed that modifying the Zoning Regulations to allow blade signs was appropriate. The following motion was then made: That the Commission adopt the following resolution to adopt the amendments with the effective date as noted within the resolution. That

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motion was made by Mr. Hutchison, and seconded by Mr. Spain, and unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 31, 2009**

Application Number: Proposed Amendments to the Darien Zoning Regulations
Application Put Forth by the Darien Planning and Zoning Commission

Activity Being Applied For: Proposal to allow blade signs in the Central Business District (CBD), Neighborhood Business (NB) and Designed Commercial (DC) zones. Blade signs are signs that are affixed to and project from a building.

Date of Public Hearing: March 24, 2009

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

Publication of Hearing Notices

Dates: March 12 & 19, 2009

Newspaper: Darien News-Review

Date of Action: March 31, 2009

Action: AMENDMENTS TO THE ZONING REGULATIONS ADOPTED, WITH AN
EFFECTIVE DATE OF SUNDAY, APRIL 19, 2009 AT TWELVE NOON.

Scheduled Date of Publication of Action:

April 9, 2009

Newspaper: Darien News-Review

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

1. The Commission proposes to amend the Darien Zoning Regulations by allowing blade signs in the Central Business District (CBD), Neighborhood Business (NB) and Designed Commercial (DC) zones. Blade signs are signs that are affixed to and project from a building.
2. The three zones proposed to allow these signs are the most pedestrian-oriented commercial zones in Darien. These signs are designed to primarily serve pedestrians, and are not of such size or location to be geared toward vehicular traffic. These signs are to be allowed in addition to wall signs now allowed within those three zones. Blade signs are to be allowed in lieu of a hanging sign.
3. A letter of support of this application was received from the Darien Chamber of Commerce. SWRPA noted that the proposed amendments "do not appear to pose inter-municipal impacts."
4. The effective date of these Regulations is April 19, 2009. Section 8-2h of the Connecticut General Statutes addresses the issue of zoning applications filed prior to a change in the Zoning Regulations, and notes that an application filed with the planning and zoning commission shall

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not be required to comply with any change in the zoning regulations taking effect after the filing of such application.

5. The 2006 Town Plan of Conservation & Development in Chapter 9 (Recommendation #6) specifically recommends the following:
 6. *Consider amending the Zoning Regulations to allow perpendicular hanging signs along the front facades in downtown.*
7. The Commission hereby finds that the proposed Amendment of the Darien Zoning Regulations is fully consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendment to the Darien Zoning Regulations*** is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, APRIL 19, 2009 AT TWELVE NOON, as approved herein:

The approved wording is as follows:
New wording in bold, deletions in strikeout:

Create a new Section 923.3.; renumber subsequent subsections in subsection 923; amend Sections 923.4. and 928.11; and amend the existing illustration in Subsection 230.

923.3. Blade Signs (See Subsection 230 for illustration.)

Blade signs shall conform to the following standards:

- a. **No blade sign shall project more than forty (40) inches from the wall or surface to which it is affixed. In cases of covered porch or walkway, a blade sign may be hung from an overhang.**
- b. **The maximum total size sign area shall not exceed seven square feet (7 square feet), and the bottom of the blade sign shall provide a minimum clearance of at least seven (7) feet above the adjacent ground. The top of the blade sign shall be a maximum of twelve feet (12 feet) above the adjacent ground.**
- c. **In cases where the property does not have any marquee or existing signs that project from the wall of the building, nor a hanging sign, blade signs are permitted. The blade sign(s) shall be in lieu of (not in addition to) the hanging sign or marquee for the property. There may be one blade sign per each ground floor tenant.**
- d. **The blade sign may overhang a public sidewalk/street right of way by a maximum of three feet provided the applicant submits written permission from the owner of the affected property (the Town of Darien Board of Selectmen or State of Connecticut Department of Transportation, depending on the owner of the sidewalk/street right of way).**
- e. **No blade sign shall be internally illuminated.**

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~~923.3~~ **923.4.** Number of Signs

A commercial use may have one wall sign, except as provided by either Subsection 923.1(c) or **923.6. Each ground floor commercial use may also have one blade sign in lieu of a hanging sign.** If the commercial property shall have the required minimum setback, it may also have one hanging sign, **or it may have one blade sign per ground floor tenant.** A double-faced hanging sign or blade sign shall count as one sign.

~~923.4~~ **923.5.** Prohibited Signs

Pole, roof, and internally illuminated signs are prohibited in these zones.

~~923.5~~ **923.6.** Signs Facing a Public Parking Lot

A commercial use adjoining and having a direct entrance on a publicly-owned parking lot may be allowed the following additional signage provided such signage shall be visible from the parking lot:

- a. One additional sign having an area not greater than six square feet;
- b. Two small directional signs provided each such sign meets all the requirements herein, does not exceed a total area of one square foot and is limited to indicating the location of the public entrance to the establishment.

928.11 ~~Projecting Signs and Unattached Signs~~

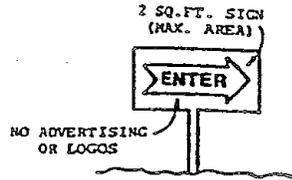
~~No projecting signs shall be permitted. This shall include signs on marquees and signs mounted on brackets, rods, etc, at right angles to a building.~~ Sandwich signs and other signs not affixed either to a building or the ground in a permanent manner shall be prohibited.

The Commission hereby approves an amendment to Section 230 as shown on the on next page, showing a blade sign:

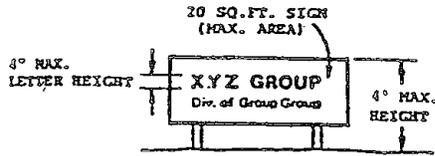
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230. TYPES OF SIGNS

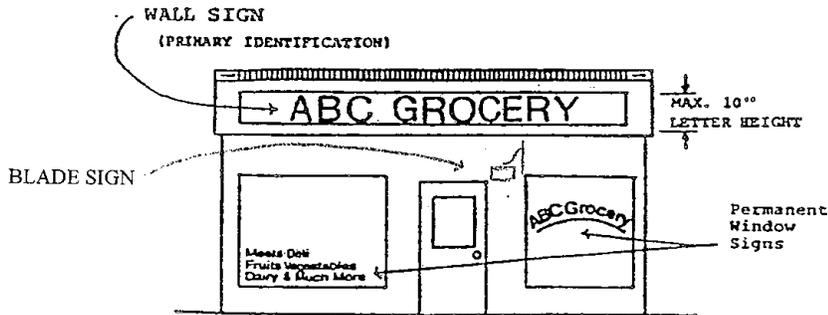
(Not to Scale)



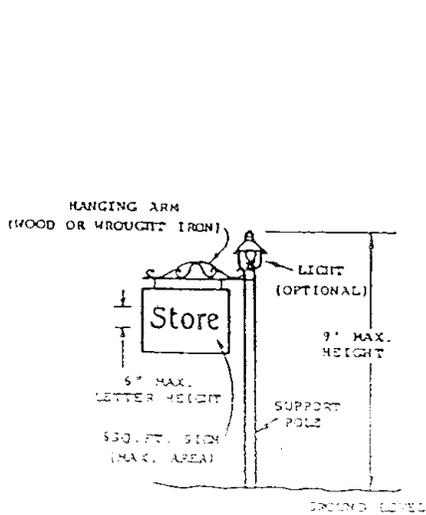
DIRECTIONAL SIGNS



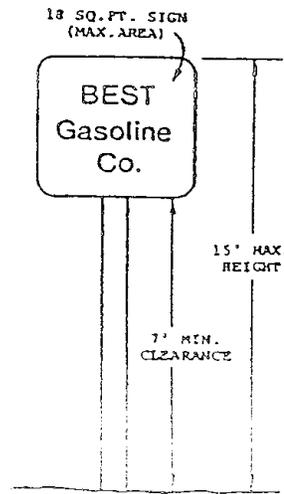
GROUND SIGN



BLADE, WALL SIGNS AND DISPLAY AREA



HANGING SIGN



POLE SIGN

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Deliberation ONLY on any public hearings closed on 3/31.

Land Filling & Regrading Application #221, Robert & Kitty Lavin, 480 Middlesex Road.

Commission members briefly noted that many of the requests made by Mrs. Starr had been agreed to by Mr. Lavin. They also noted the need to change the 1:1 slope area, and move the pipe ten feet.

Land Filling & Regrading Application #223, Nassau Mansfield Avenue, LLC, 49 Mansfield Avenue.

Commission members had no issues with this application. Staff was directed to draft a resolution for the Commission's review at an upcoming meeting.

Coastal Site Plan Review #242, Flood Damage Prevention Application #271, Land Filling & Regrading Application #222, Marta LaRock, 2546 Boston Post Road.

Commission members noted that many of the items appeared to have been resolved between the neighbor and the property owner during the public hearing. Staff was directed to draft a resolution for the Commission's review at an upcoming meeting.

Approval of Minutes

March 24, 2009 General Meeting/Public Hearing

Mr. Spain made a motion to approve the minutes as written. That motion was seconded by Mr. Finke and unanimously approved.

There being no further business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

David Keating
Assistant Planning & Zoning Director