

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
MAY 5, 2016**

Place: Auditorium

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, DiDonna, Sini, Jr., Voigt, Olvany (arrived at 8:50 P.M.)

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Amendments to the Darien Zoning Regulations put forth by Noroton Heights Shopping Center, Inc., and FR Darien, LLC (COZR #6-2016).

Proposal to amend Section 680 *et. seq.* and the inclusion of a new subsection 687 (Public Plazas). These proposed amendments address redevelopment in the Noroton Heights Redevelopment (NHR) Zone, and would allow for an increase in: number of stories of building height; building height in feet; Developed Site Area; and allow for larger dwelling units. Amendments are also proposed to Sections 905 (Joint Parking), by adding a new subsection 905.2 (Joint Parking in Mixed Use Developments). This will allow residential parking to be separated from non-residential parking. Amendments to subsection 907 (Parking Structures), would allow for subsurface parking without such being counted as stories, and will allow such subsurface parking structures to be located within minimum yard areas. The amendments to Sections 905 and 907 would apply to all zoning districts in Darien. *PUBLIC HEARING OPENED ON 4/5/2016.*

Attorney Robert Maslan, Jr. represented the Palmer family and Noroton Heights Shopping Center. They were present to provide addition information in response to questions raised by the Commission at the previous public hearing. He said that he is aware that there are quite a few emails from neighboring property owners that have been sent to the Commission and many of those concern site plan issues and density. He said the site plan issues are premature because this is only a request to change the Regulations. He said that they are not requesting to change the density and therefore those concerns are unfounded. He said most of the changes proposed are clarifications to the Regulations. For example, in the list of permitted uses, now everything requires special permit approval from the Planning & Zoning Commission and that will cause many concerns later as one business changes to another business. He said another clarification concerns the size of the dwelling units. He said that they are requesting that the height of the building be modified to allow 4 stories and 55 feet in height. Another modification would allow the underground parking structure to extend into the required setback areas that would normally be applicable to above ground buildings. This will allow them to meet the dimensional requirements for parking spaces. Another clarification concerns public plazas. This is important because extra floor area and extra height is based on the amount of public plazas but the Noroton Heights area is different from the Central Business District because in the Noroton Heights area there is no rear building line established to create an exemption to the on-site parking requirement. They are requesting that if

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5% of the site is dedicated as public access plazas that could have tables and chairs and benches and other amenities for people to use, then the requirement for public plazas would be satisfied. He said that the applicant needs these changes in order to proceed with the redevelopment of the westerly portion of the Noroton Heights Business Zone. He said that at present, the Noroton Heights Shopping Center has approximately 68,000 square feet of commercial space and 2 residential units. In the proposed redevelopment, they would have approximately 69,000 square feet of commercial space and approximately 50 residential units.

Attorney Bruce Hill represented Federal Realty and presented a letter that responds to many of the questions that had been raised at the previous public hearing. He said that they cannot accomplish the objects of the redevelopment without the modifications of the Regulations. He said Federal Realty is one of the two major property owners that control a substantial portion of the Noroton Heights commercial area. He said the current Regulations are derived from very conceptual designs for redevelopment that had been envisioned by Thomas Golden, who owned the property at that time. There is a 29 foot drop in elevation from the intersection of Noroton Avenue and West Avenue down to the lowest portion of Edgerton Street, which is approximately in the center of the Noroton Heights business area.

Chairman Cameron asked why the existing Regulations cannot work other than the applicant's desire for additional financial gain. Mr. DiDonna said that it appears that the increase density would allow 38 more dwelling units and approximately 40,000 square feet more floor area for Federal Realty. Attorney Hill said that the density is about the same as that which Mr. Golden had proposed. In response to questions, Attorney Hill said that he was not sure if Stop & Shop or a different supermarket will be included in the mix of retail uses on the site. He said that details would be submitted as part of the business site plan and special permit applications which need to be reviewed and acted on by the Commission. At present, they are only requesting modifications to the Zoning Regulations so that they can formulate the business site plan and special permit applications. He said that they are asking for an increase of the developed site area and allowing roof top green areas to count as open space or plaza. Attorney Hill said that the property owners are very aware that traffic issues and drainage concerns and density issues all need to be addressed during the next application process but the fully developed plans are not ready yet because they depend on the how the Commission responds to the request to modify the Zoning Regulations.

Mr. Sini asked which of the requested modifications are 'critical' and 'must have' items. Attorney Hill said that all the requested modifications are necessary. He said that the client is very aware that they do not want to over develop the site, which would result in too much traffic, or would result in vacant space within the buildings. He noted that the redevelopment that will take place in the near future will last for the next 50 – 60 years.

Mr. Olvany arrived at 8:50 P.M.

Attorney Hill said that more residential units will mean more traffic, but due to the nature of the residential units, it is not likely that the additional units will create additional school-age children. Visual slides of the proposed Noroton Avenue public plaza and covered pavilion were displayed. There was also a slide of the overlay view of the corner of West Avenue and Edgerton Street. Attorney Hill noted that the building will appear to be two stories tall along the street and then as the building recedes farther away from West Avenue it would then become three stories tall plus the

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attic space under the pitched roof. Mr. Olvany said the proposed building does not appear to be setback far enough before it is stepped up in height. He said that it would have a substantial impact along the West Avenue corridor.

Craig Flaherty, Professional Engineer, showed a slide of 266 West Avenue and a section through that area. It shows that the elevation of the units closest to West Avenue would be above the retail level of stores and restaurants that would be accessible from the interior parking lot (not West Avenue). Above the business floor, there would be two floors of residential use. The sight line from the front door of the residences across the street (the north side of West Avenue) to the proposed buildings on the south side of West Avenue would not allow for a view of the third or fourth stories because the two story building proposed on the south side of West Avenue would block the view of the higher portions of the buildings. Mr. DiDonna noted that the grades along West Avenue undulate and vary and that from various locations, one would be able to see the third and fourth stories of the proposed commercial building. Mr. Flaherty reviewed a similar slide of 260 West Avenue, which is the lowest ground, and 252 West Avenue, which is some of the highest ground on the north side of West Avenue. He said that in those cases, the third and fourth floors would not be visible. Mr. Olvany said it appears the density would be increased. Attorney Hill said that it really would not increase compared to what had been proposed by Mr. Golden.

Patrick McMahon of Federal Realty said that they purchased the property based on the value of what is there today. They did not purchase the parcels based on the value of what could be built. He said that the existing buildings and parking areas and development is not an inviting pedestrian experience. He said that their design will include varying roof lines and planes of the facades of the buildings. In order to achieve their goals of creating a much more pedestrian friendly development, he said as part of the site plan application they will provide a detailed comparison of the previous proposal and what would be allowed per the Regulations if they are changed. Mr. DiDonna said that he understands that according to Mr. McMahon an increase in the building height is a must have item. Mr. Olvany said that Federal Realty should have assembled more of the properties. Attorney Hill said that Mr. Golden had assembled several of the properties in the area to create the property which was acquired by Federal Realty.

Steve Morley, of 40 Hilton Street, submitted a petition signed by approximately 50 neighbors. He said that the density of 12 units per acre is the maximum. He said that they understand that the proposal is to create approximately 200 residential dwelling units. This would be greater than the 189 units created on the 22 acre Avalon site. The residential density at the commercial area would be double the density at the Avalon development.

Jay Hardison of Nearwater Lane asked why the property owners have to want so much. He said that the proposed redevelopment is not in keeping with the community character or architectural character of the area. He said that the applicants are basically asking the Commission for a blank check and they will come back with something more for the Commission to approve.

Harry McLaghlin, a neighbor, said that the applicants have talked about making a pedestrian friendly development but the traffic congestion has been getting worse and worse and would be compounded if more development is allowed. He said that traffic backups in the area are not uncommon and that the Zoning Regulations should minimize this congestion, not increase the congestion. He said that much of the property, particularly behind Stop & Shop, fronts on West

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Avenue but now there is no access or orientation towards that residential street. Under the current proposal, they would have front doors of residential units facing West Avenue but no parking area would be accessible from West Avenue.

Fred Conze of 24 Royle Road spoke to the Commission. Mr. Conze is a former Chairman of the Planning & Zoning Commission and he was the Chairman when Mr. Golden approached the Planning & Zoning Commission requesting changes to the Regulations. Issues and concerns that were brought up at that time included the density and traffic and drainage. Mr. Conze said that this commercial area is at the bottom of a 177 acre water shed and the flooding issue has not, and will not go away. Mr. Conze said that he met with Federal Realty officials and stressed to them the importance of reaching out to the Town about the traffic and the flooding issues. He said that the Commission should not give up on the special permit requirements because that is the control that the Commission has in approving the development and future uses on the site. He said that the Town and the Commission do not want to see a flat two or three story building along the West Avenue street frontage.

Linda Saverine Santarella of West Avenue, said that it is important for the Commission to get the answers to their questions before they decide upon the applications. She said that she did not support the original creation of the overlay zone for the redevelopment of the Noroton Heights District. She said that a recent redevelopment at 333 West Avenue to create 8 replacement homes where only half that number existed previously has had an impact on the neighbors. That change at 333 West Avenue had required that the Commission amend the Zoning Regulations but it has changed the neighborhood. She said that flooding in the area, particularly in the low spots adjacent to Heights Road and Edgerton Street, are a real concern that must be dealt with.

The Commission decided that it will continue the public hearing on this matter on May 24, 2016. There were no other comments this evening.

At about 9:45 p.m., Chairman Cameron then read the following agenda item:

Amendment to the Darien Zoning Regulations put forth by Darien ALF Property, LLC/Maplewood Darien, 599 Boston Post Road (COZR #9-2016). Proposal to amend Section 907 of the Zoning Regulations regarding the setback and location requirements for subsurface parking structures. The amendment proposes that subsurface parking levels shall not constitute stories for purposes of calculating building height.

Attorney Amy Zabetakis represented the applicant and said that she had not included in the previous request to modify the Zoning Regulations the changes regarding the setback and location requirements of subsurface or underground parking structures. The reason for that is because a similar modification had been part of the proposal submitted by Federal Realty and Noroton Heights Shopping Center. She now realizes that those applications regarding the other properties may take a while and therefore she felt it best to request that the Commission modify the existing setbacks for underground parking structures. She said that the existing underground parking beneath the Maplewood assisted living facility already extends closer to the front property line than the building setback requirement. They wish to continue that same line of the underground parking so that they will be able to create a sufficient number of on-site parking spaces. Attorney Zabetakis said that this requested change is only for commercial business zones and not for residential zones.

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Director of Planning Jeremy Ginsberg said that the property is located on a corner lot, having frontage on the Boston Post Road and Brookside Road. Although it might be appropriate to allow the underground parking to be closer to the front lot lines and side lot line than an above ground building, it would not be appropriate to allow the underground parking structures into the residential zone or the required buffer adjacent to the residential zone.

Attorney Zabetakis said that the Maplewood assisted living facility was created as a re-use of the building that had previously been the Darien Convalescent Center. Mr. Ginsberg said that a variance had allowed the building location in 1965.

Attorney Robert Maslan spoke in support of the application and noted that the Commission needs to address whether the business parking can go across the zone boundary line adjacent to the residential zone or if it must comply with the required buffer adjacent to the residential zone.

There were no other public comments. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

At about 10:00 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan #146-D/Special Permit, Lithos, 319 Boston Post Road. Proposal to establish outdoor dining in front of the restaurant. The subject property is located on the north side of Boston Post Road, at the northeast corner formed by the intersection of Birch Drive and Boston Post Road, and is shown on Assessor's Map #13 as Lot #1 & #2, in the SB-E and R-1/2 Zones.

Mr. Sini stepped away from the Commission and did not participate in order to avoid any perception of a conflict of interest.

Ted Giapoutzis said that they are requesting a modification of the Special Permit to allow a terrace on the front right hand side of the building. The terrace would allow outside dining. No music would be outside. The outside terrace area would be strictly for dining, not for entertainment or a bar. Mr. Giapoutzis said that he also wants to redo the landscaping along Birch Road. Ms. Cameron said that the previous operator of the restaurant, Anthony's Coal Fired Pizza, had proposed increasing the number of parking spaces, redoing the landscaping along Birch Road and proposed a terrace. As part of that previous application, additional on-site parking was proposed along with the outside terrace. Mr. Ginsberg said that the Zoning Regulations do allow the Commission to approve up to 16 outside seats without mandating additional on-site parking spaces. Mr. Giapoutzis said that Lithos is not a sports bar type of restaurant like Anthony's Coal Fired Pizza. He noted that many of the employees of Lithos park at the Darien Diner, located immediately to the east. Mr. Giapoutzis also operates the Darien Diner. Mr. DiDonna said that this information submitted is a little confusing. It indicates that there will be 16 seats but it is unclear whether it will be 6 or 8 tables. It also indicates that there might be a tent or awning. Mr. Giapoutzis said that it would be a maximum 16 seats and whether there would be 6 or 7 or 8 tables would depend on the customer preference, but at no time would there be more than 16 seats on the terrace. Mr. Giapoutzis said that he will be proposing an awning and it needs to go to the Architectural Review Board. Mr. Giapoutzis said that the awning will help control the noise and

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will also help to satisfy the concerns of the Darien Health Department. In response to questions, he said that the wall adjacent to the terrace would be made of stone and would not be concrete block. Ms. Cameron said that no details of the wall had been proposed or submitted.

Jimmy Brown of 5 Birch Road said that this is the fifth time that a terrace had been proposed at restaurants in this location. He said that two previous applications had been withdrawn and two previous applications had been denied. He said that he and the neighbors have opposed past applications due to the parking demand. Having more seats naturally will result in more customers at the site and will require more on-site parking. In the past, parking of vehicles has occurred on the grass beyond the allowed parking lot but this has ceased. He said that the Commission had previously approved landscaping along Birch Road and in the required buffer area but that landscaping was never installed. Mr. Brown said that he and the neighbors are concerned about the noise of having the outside operation and that the noise could affect the neighbors in the late evening hours. In response to questions, Mr. Ginsberg said that in 2006 or 2007 the Commission had amended the Regulations to allow up to 16 outside seats without requiring more parking spaces. Mr. DiDonna expressed concern about the noise issue. Mr. Giapoutzis said there is acoustical music inside only. They do not use amplifiers inside or outside.

Mr. Terry Bock of 7 Birch Road asked the Commission if a new restaurant would need to come back to the Commission for re-approval of the terrace area. Mr. Olvany said that the new restaurant would not necessarily have to come back if it is the same use, a restaurant. Mr. Bocks said that that could be a problem if the next restaurant is a different style and operates later hours or creates noise issue.

There was some discussion about a landscaping plan which includes about a dozen arborvitae.

There were no other comments. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

Mr. Sini returned to the meeting room.

At about 10:25 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan #33-F & #33-G/Special Permit, Brian McKay, 537-567 Boston Post Road. Proposal to establish a personal service tenant in the former Kempo Karate space behind Compleat Angler at 537 Boston Post Road; and to establish a personal service tenant at 555 Boston Post Road in the first floor space formerly occupied by Core Health. The subject property at 537-567 Boston Post Road is located on the north side of Boston Post Road, approximately 650 feet northeast of its intersection with Brookside Road, and is shown on Assessor's Map #14 as Lot #36 in the DB-2 Zone.

Douglas McKay explained that rather than putting in a retail store within the existing space, they propose a specialty hair care facility. This is a Special Permit use but it is a low impact use because of its special nature. They treat clients for extended periods of time and therefore the proposed use has a very low parking demand and very little impact on traffic.

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There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron then read the following agenda item:

GENERAL MEETING

Discussion, deliberation and possible decisions regarding:

Coastal Site Plan Review #60-C, Land Filling & Regrading Application #318-A, Thomas & Elizabeth Ritchie, 8 Cross Road. Proposal to install a pool, patio, stormwater management, and perform related site development activities within a regulated area. *HEARING CLOSED: 4/26/2016.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Commission members reviewed the draft resolution regarding the proposed filling and regrading associated with the installation of a pool, patio and stormwater management system at 8 Cross Road. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini and seconded by Mr. Olvany. All voted in favor except Mrs. Cameron, who abstained, since she was not at the public hearing. The motion passed by a vote of 4-0-1. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 5, 2016**

Application Number: Coastal Site Plan Review #60-C
Land Filling & Regrading Application #318-A

Street Address: 8 Cross Road
Assessor's Map #65 Lot #8-4

Name and Address of Applicant & Applicant's Representative: Rob Frangione, PE
Frangione Engineering, LLC
15 Snowberry Lane
New Canaan, CT 06840

Name and Address of Property Owner: Thomas & Elizabeth Ritchie
8 Cross Road
Darien, CT 06820

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Activity Being Applied For: Proposal to install a pool, patio, stormwater management, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the north side of Cross Road, approximately 150 feet east of its intersection with Tokeneke Trail.

Zone: R-1

Date of Public Hearing: April 26, 2016

Deliberations Held: April 26, 2016

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

Publication of Hearing Notices

Dates: April 15 & 22, 2016

Newspaper: Darien News

Date of Action: May 5, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 13, 2016

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 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.
- 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 proposal is to install a pool, patio, stormwater management, and perform related site development activities within a regulated area. The subject property is 1.59 acres.
2. At the public hearing, professional engineer Rob Frangione explained the application. He reviewed the proposed construction and the regarding and showed the proposed landscaping plan, which proposes thirteen new trees, twelve to fourteen foot high Norway Spruce along the north and west property lines, will aid in screening the pool from neighboring properties.

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3. The applicant has included stormwater management as part of this proposal. The on-site drainage patterns will be the same. The Assistant Department of Public Works has reviewed the application and noted a “reduction in peak rates of runoff for all storms analyzed.” The Darien Health Department has commented that the applicant needs to be cautious when installing the pool so as not to disturb the pipe from the septic tank to the leaching system.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #60-C and Land Filling & Regrading Application #318-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling, excavation, and regrading work, pool construction, stormwater management, and associated planting/landscaping shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Overall Site Plan, Proposed Site Plan Prepared for Thomas & Elizabeth Ritchie 8 Cross Road, by Frangione Engineering, dated March 14, 2016, Sheet No. S1.
 - Details & Notes, Proposed Site Plan Prepared for Thomas & Elizabeth Ritchie 8 Cross Road, by Frangione Engineering, dated March 14, 2016, Sheet No. S2.
 - Sediment & Erosion Control Plan, Proposed Site Plan Prepared for Thomas & Elizabeth Ritchie 8 Cross Road, by Frangione Engineering, dated March 14, 2016, Sheet No. S3.
 - Pool Landscaping Plan Ritchie Residence 8 Cross Road, by Kristen Andronowitz, LLC, Landscape Architect, last dated 3/14/16, Sheet No. CD14.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans listed in Condition A, above, 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.
- D. A drainage maintenance plan was submitted as part of the prior application for this property to construct the residence. Additional Cultec recharger units are proposed to be installed as part of the pool construction project. Thus, since the same units are being installed on the rear of the property as they are on the front of the property, there is no need to file a new Notice of Drainage Maintenance Plan in the Darien Land Records.

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- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that, commencing with the first disturbance of the site and then throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.
- F. Prior to the request for the Certificate of Zoning Compliance for the pool, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to Zoning and Building Permits for the construction of the pool.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plans within one year of this action (May 5, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records prior to the issuance of the Zoning and Building Permit for the proposed pool in order to finalize this approval.

Chairman Cameron then read the following agenda item:

Land Filling, Excavation, & Regrading Application #380, Jeff Urban, 10 Crane Road. Proposing to fill, excavate, and regrade and construct retaining walls in association with the construction of a replacement single-family residence, and to perform related site development activities. The subject property is located on the east side of Crane Road, approximately 650 feet south and east of its intersection with Pear Tree Point Road, and is shown on Assessor's Map #60 as Lot #27 in the R-1 Zone. *PUBLIC HEARING CLOSED: 4/26/2016.*

Commission members reviewed the draft resolution regarding the proposed filling and regrading regarding the replacement house. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved by a vote of 4-0-1. Mrs. Cameron was not at the public hearing, and abstained on this matter. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 5, 2016**

Application Number: Land Filling & Regrading Application #380

Street Address: 10 Crane Road
Assessor's Map #60 Lot #27

Name and Address of Applicant & Applicant's Representative: Ryan Fletcher
Fletcher Development
5 Church Street
Redding, CT 06896

Name and Address of Property Owner: Jeff Urban
10 Crane Road
Darien, CT 06820

Activity Being Applied For: Proposing to fill, excavate, and regrade and construct retaining walls in association with the construction of a replacement single-family residence, and to perform related site development activities.

Property Location: The subject property is located on the east side of Crane Road, approximately 650 feet south and east of its intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: April 26, 2016
Deliberations held: April 26, 2016

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

Publication of Hearing Notices
Dates: April 15 & 22, 2016 Newspaper: Darien News

Date of Action: May 5, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: May 13, 2016 Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 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

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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 proposal is to fill, excavate, and regrade and construct retaining walls in association with the construction of a replacement single-family residence, and to perform related site development activities. The proposed residence will be served by public water and sewer, and the septic system will be abandoned.
2. It was noted at the public hearing that most of the regrading work proposed as part of this application is cutting in the back yard to establish a larger, flatter back yard, with tiered retaining walls. Other regrading is shown on the plans near the proposed driveway and the northern side of the property to accommodate the backout area from the garage.
3. A Stormwater Management Plan was put forth by the applicant and described at the public hearing by the applicant's engineer John Martucci of LBM Engineering. In response to a question at the hearing, Mr. Martucci noted that a Drainage System Operation & Maintenance Plan had been submitted for the record.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #380 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling, excavation, and regrading work, installation of stormwater management and planting/landscaping shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Stormwater Management Plan prepared for Urban Residence 10 Crane Road, by LBM Engineering, LLC, scale 1"=20', dated February 10, 2016, last revised 2/18/2016, Sheet 1 of 2.
 - Grading – Sedimentation & Erosion Control Plan prepared for Urban Residence 10 Crane Road, by LBM Engineering, LLC, scale 1"=20', last dated, 2/17/2016, Sheet 2 of 2.
 - Landscape Plan, Urban Residence 10 Crane Road, by Eckerson Design Associates Landscape Architecture, dated 02.02.2016, Sheet SP-1.0.
- B. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.

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- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, 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.
- D. While specific architectural plans for the proposed residence were submitted for the record and described by the architect at the public hearing, the regrading work proposed as part of this application is not affected by the house footprint, except for the backout area north of the garage. Thus, the Commission authorizes changes to the submitted house plans which can be approved by staff, as long as the regrading proposed does not change from that shown in the plans in Condition A, above. As part of the regular Zoning Permit application process, the applicant must demonstrate that all aspects of the proposed structure comply with the Zoning Regulations, including, but not limited to, setbacks, Building Coverage and Building Height.
- E. A Drainage System Operation & Maintenance Plan for the proposed Cultec units was submitted as part of this application. The maintenance plan requires the property owner and all subsequent property owners of 10 Crane Road to maintain the drainage facilities pursuant to the maintenance plan.
- F. A related "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to any on-site filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the new foundation for the proposed residence.
- G. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that, commencing with the first disturbance of the site and then throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.
- H. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- I. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The construction of the replacement residence and associated driveway from Crane Road will require a Sewer Connection Permit and Street Opening Permit from the Darien Public Works Department. Two separate Zoning and Building Permits will be required for this project: one for the new foundation of the proposed residence; and another for the remainder of the proposed residence above the foundation.

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- 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 this permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 5, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and 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 prior to the issuance of the Zoning and Building Permit for the foundation of the new replacement residence in order to finalize this approval.

Chairman Cameron then read the following agenda item:

Special Permit Application #290, Daniel Lew d/b/a UBreakIFix, 115 Old King's Highway North.

Proposal to establish a personal service use in the space formerly occupied by State Farm Insurance. The subject property is located on the west side of Old King's Highway North, approximately 250 feet south of its intersection with Boston Post Road, and is shown on Assessor's Map #35 as Lot #19 in the DB-2 Zone. *PUBLIC HEARING CLOSED: 4/26/2016.*

Commission members discussed the draft resolution. Mr. DiDonna noted that the Commission is not approving the use of someone else's parking area. All Commission members agreed with his observation. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini and approved by a vote of 4-0-1 with one abstention. Mrs. Cameron abstained, since she was not at the April 26 public hearing on this matter. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 5, 2016**

Application Number: Special Permit Application #290

Street Address: 115 Old King's Highway North
Assessor's Map #35 Lot #19

Name and Address of Applicant & Applicant's Representative: Daniel Lew
UBIF Darien LLC d/b/a/ UBreakIFix
6 Coachlamp Lane
Darien, CT 06820

Name and Address of Colonial Land Ltd

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Property Owner: 90 Brookside Drive
Stamford, CT 06903

Activity Being Applied For: Proposal to establish a personal service use in the space formerly occupied by State Farm Insurance.

Property Location: The subject property is located on the west side of Old King's Highway North, approximately 250 feet south of its intersection with Boston Post Road.

Zone: DB-2

Date of Public Hearing: April 26, 2016

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

Publication of Hearing Notices

Dates: April 15 & 22, 2016

Newspaper: Darien News

Date of Action: May 5, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 13, 2016

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 620 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 sketches, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to establish a personal service use, a repair shop, in the space formerly occupied by State Farm Insurance. As noted in Section 624c of the Darien Zoning Regulations, this use is permitted by Special Permit. The applicant explained that the proposed use will include accessory sales of related retail merchandise. No new impervious surface is being created as part of this application, and there will be no changes to the site other than changes to the interior.

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2. At the public hearing, the applicant explained the nature of the business, and the existing on-site parking. It was noted that the twelve on-site parking spaces are sufficient for the proposed use.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #290 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The proposed use shall be in accordance with the submitted application materials submitted to and reviewed by the Commission. An 8-1/2" x 11" sheet was submitted showing three possible plans to fit up the first floor for this tenant. At the public hearing it was confirmed that the applicant was not yet certain which one would be implemented. This sheet also showed the existing space in the basement.
- B. Because this application involves no new impervious surface, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- C. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. Any signage needs prior review by the Architectural Review Board (ARB), and then will need the routine Zoning and Building Permits.
- D. 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 this permit as it deems appropriate.
- E. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 5, 2017). This may be extended as per Section 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within the next sixty days AND prior to the issuance of the Zoning and Building Permit for the tenant fit-out in order to finalize this approval.

Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #309, Flood Damage Prevention Application #353, Robert & Carol Gray, 1 Brush Island Road. Proposal to construct a 4' x 60' open grate pier with a 3' x 8'

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cantilevered platform and an attached 21” wide x 7’ high access ladder and perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED: 4/26/2016.*

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Olvany and approved by a vote of 4-0-1, with Mrs. Cameron abstaining, since she was not at the public hearing. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 5, 2016**

Application Number: Coastal Site Plan Review #309
Flood Damage Prevention Application #353

Street Address: 1 Brush Island Road
Assessor's Map #56 Lot #22

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

Name and Address of Applicant & Property Owner: Robert & Carol Gray
1 Brush Island Road
Darien, CT 06820

Activity Being Applied For: Proposal to construct a 4’ x 60’ open grate pier with a 3’ x 8’ cantilevered platform and an attached 21” wide x 7’ high access ladder and perform related site development activities within regulated areas.

Property Location: The subject property is located on the north side of Brush Island Road, at its northwestern intersection with Nearwater Lane, and is shown on Assessor’s Map #56 as Lot #22, in the R-1 Zone. The proposed activity will occur on Brush Island Road approximately 950 feet west of the intersection of Nearwater Lane and Brush Island Road.

Zone: R-1

Date of Public Hearing: April 26, 2016
Deliberations held: April 26, 2016

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

Publication of Hearing Notices
Dates: April 15 & 22, 2016

Newspaper: Darien News

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Date of Action: May 5, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 13, 2016

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 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 4' x 60' open grate pier with a 3' x 8' cantilevered platform and an attached 21" wide x 7' high access ladder and perform related site development activities within regulated areas. The structure is for private recreational use.
2. The Darien Environmental Protection Commission (EPC) approved this application as part of EPC #12-2016 on April 21, 2016. That approval is hereby incorporated by reference.
3. The applicant received a Permit from the State of Connecticut Department of Energy & Environmental Protection (DEEP) for this work (Permit #201502802-KB). A Permit from the Army Corps of Engineers has also been obtained (Permit #NAE-2015-414). Those approvals are also incorporated by reference.
4. The amount of work within Planning and Zoning Commission jurisdiction is shown on the submitted plans and described in the application materials. At the public hearing, the applicant's representative noted that only a small portion of the dock is in Town jurisdiction. All other work associated with this project is at a lower elevation, and not within the jurisdiction of the Town of Darien Planning and Zoning Commission.
5. The potential adverse impacts of the proposed activity upon coastal resources, as designed, are minimal and are therefore acceptable.
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.

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7. 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.
8. The proposed activity, as modified within this resolution, 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 minimize any adverse impacts by the proposed activity on coastal resources.
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.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #309 and Flood Damage Prevention Application #353 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:
 - Improvement Location Survey Depicting Proposed Conditions 1 Brush Island Road prepared for Robert A. Gray Carol G. Gray, by William W. Seymour & Associates, last revised August 24, 2015, Sheet 4 of 5.
 - Improvement Location Survey Depicting Existing & Proposed Cross Sections 1 Brush Island Road prepared for Robert A. Gray Carol G. Gray, by William W. Seymour & Associates, last revised August 24, 2015, Sheet 5 of 5.
- B. Due to the location of the subject property, and the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management per Sections 888a(1) and 888a(3) of the Darien Zoning Regulations.
- C. 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.
- D. During construction, the applicant shall utilize any sediment and erosion controls as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Prior to May 5, 2017, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the pier, dock and site work have 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.

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- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. 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.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 5, 2017). This may be extended as per Sections 815 and 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.

There being no further business, the following motion was made: that the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 10:35 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

05.05.2016min