

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING
AUGUST 9, 2016**

Place: Room 206

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, DiDonna, Olvany, Voigt, Sini, Jr.

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

Flood Damage Prevention Application #357, Long Island Brothers, LLC, 23 Lynn Court.
Proposal to raze the existing residence, and construct a replacement single-family residence; river bank reconstruction; and to perform related site development activities within a regulated area. The subject property is located on the northwest side of Lynn Court, approximately 450 feet west of its intersection with Hoyt Street, and is shown on Assessor's Map #31 as Lot #23 in the R-1/3 Zone.

Mark Lebow of William W. Seymour & Associates Land Surveyors explained that the project is to remove the existing house and construct a new house on the property. They also will be doing work along the edge of the Noroton River to fix the eroded sections. They had submitted an application to the Environmental Protection Commission (EPC) which was reviewed by Tighe & Bond, engineers hired by the Town to conduct a peer review. The plans have been revised in accordance with the comments, and last month, the EPC approved the revised plan for work in the vicinity of the Noroton River. The application to the Planning & Zoning Commission is to do the site work and regrading and to construct the replacement house in the Flood Hazard Zone. Mr. Lebow said that the house on the property had been deteriorating for the past 10 years or so. They hope to obtain a demolition permit in the near future to start the productive aspects of the project.

Mr. Lebow said that the part of the stream embankment restoration work involves installation of gabion walls, which are basically wire mesh baskets that are put in place and then back filled with rocks. The gabion wall would be approximately 45 feet long and the details are shown on Sheet DT1. The base of the gabion wall will have two large baskets on the bottom level and then two smaller baskets would be on the next level followed by a third level with two smaller baskets and then a top level with one basket. Tom Nelson, Professional Engineer of McChord Engineering, said that the gabion wall is used to stabilize streaming banks but is not as severe or as stiff as a solid wall. Using the gabion allows them to avoid any filling within the floodway of the Noroton River. In response to questions, he said that the gabion structures will last 50 years or more. There are void spaces between the stones and some sediment and material will be caught and collected in those void spaces over time. In some cases, plants will start to grow in the sediment and soil material that is caught in the rocks. It was noted that they will try to connect the gabion wall on the subject property with an existing wall along the River edge on the adjacent property to the south. They will need permission from that adjacent property owner to make the 10-15 foot long

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connection on the adjacent property. Mr. Ginsberg said that he understands that the neighbor had attended the EPC meeting and is aware of the project. He asked when it would be best to construct the gabion wall. Mr. Nelson responded that it would be best to construct the gabion wall during the low flow season (the summer) so it is likely that the gabion wall to stabilize the stream embankment will not be built until the summer of 2017.

In response to questions, Mr. Lebow said that the applicant has already accepted the changes and stipulations of approval as determined by the EPC and they will also accept the Planning & Zoning Commission stipulations of approval. They will try to get the neighboring property owner's permission to extend the gabion wall on the subject property to connect with the existing wall along the neighboring property. If they obtain the neighbor's permission, they will return to the Commission with details of the proposed connection and they will be requesting an amendment of the approval to incorporate that change. Mr. Nelson said that the erosion of the subject site has allowed water flow of the Noroton River to get behind the neighbors wall and this is starting to undermine the neighbor's wall. Extending the gabion will be a benefit to the neighbor.

Commission members did not have any more questions regarding the application. There were no comments from neighboring property owners or anyone else at the public hearing. 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. Sini, seconded by Mr. Voigt and unanimously approved.

At about 8:20 p.m., Chairman Cameron read the following agenda item:

Flood Damage Prevention Application #189-B, Land Filling & Regrading Application #372-A, Michael Nikolas, 2 Silver Lakes Drive. Proposal to construct a single-family residence and associated filling and regrading and to perform related site development activities within a regulated area. The subject property is located on the northeast corner formed by the intersection of Silver Lakes Drive and Tokeneke Road, and is shown on Assessor's Map #37 as Lot #15 in the R-1/2 Zone.

Steve McAllister, Professional Engineer, explained that the subdivision approval had been granted by the Planning & Zoning Commission and at the time the applicant showed the conceptual plans for house development on each property. Now they have very specific plans for the house development for each of the two lots and they are applying to the Planning & Zoning Commission for the necessary permits to fill and regrade so that they can build on each of the two parcels. The Base Flood Elevation (BFE) in the area is 41.7 feet above North American Vertical Datum 1988 (NAVD 88). Mr. McAllister said that 8 large trees will need to be removed for the proposed construction at 2 Silver Lakes Drive. The landscaping plan calls for the installation of new plants and screening trees around the perimeter. He said there would be approximately an 8 foot space between the two retaining walls on the east and southeasterly sides of the site. The driveway for the new house would be from Silver Lakes Drive. The house will be elevated so that it will be above the expected flood level. A new wall will be constructed along part of the sidewalk along Tokeneke Road in order to contain the proposed fill upon which the house will be built. They will be changing the fence along Tokeneke Road from a 6 foot high fence to a 4 foot high fence per Mr. Ginsberg's comments. The revised house plans that were submitted last week accurately show the

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proposed regrading and architectural features of the house. Mr. McAllister said that the proposed dwelling would have five bedrooms and contain approximately 4,500 square feet of living space.

Arpita Muchhal of 156 Tokeneke Road explained that her concern was about the details of the proposed retaining wall adjacent to her property. The top of wall and existing grades in the vicinity are not clearly expressed on the plans. She said that she is concerned about drainage being impacted. She does not want the existing drainage pattern to be changed due to the construction of the retaining wall.

John Ricci of 154 Tokeneke Road said that now the construction plans show a swimming pool on each of the two lots. He is very concerned about the screening trees on the knoll near his house. He said the trees are 50-60 feet high and provide many benefits including visual and noise separation from the road and the highway. He said work near the boundary lines and near the root systems of the existing trees is a big concern.

Mr. McAllister said that the retaining wall would be a maximum of four feet high on the plans and then some places it would only be two feet tall along the property line. He said it could be shifted so that it is two feet inside the property rather than right on the property line. Ms. Cameron and Mr. Olvany noted the importance of saving the trees near the property lines and on the neighboring properties. They noted that the maps and plans need to be more clearly labeled to provide specifications and details. Other important factors include the pool fence, pool equipment location, tree protection and tree removal. Commission members decided it would be appropriate to continue the public hearing regarding this matter on September 13, 2016.

At about 8:40 p.m., Chairman Cameron read the following agenda item:

Flood Damage Prevention Application #189-C, Land Filling & Regrading Application #372-B, Michael Nikolas, 4 Silver Lakes Drive. Proposal to construct a single-family residence, in-ground swimming pool, and associated filling and regrading and to perform related site development activities within a regulated area. The subject property is located on the east side of Silver Lakes Drive approximately 200 feet north of its intersection with Tokeneke Road, and is shown on Assessor's Map #37 as Lot #15 in the R-1/2 Zone.

Steve McAllister, Professional Engineer, represented the applicant and noted that the Planning & Zoning Commission and Environmental Protection Commission (EPC) had looked at and approved the original subdivision that included conceptual development. Now they are proposing detailed development plans. Mr. Ginsberg said that the plan needs to go back to the EPC to see if they are comfortable with the current proposal as being in compliance with the previously reviewed plan or if the EPC will require a separate review of the proposed development.

Mr. Sini said that there are similar issues as those just discussed regarding #2 Silver Lakes Drive regarding the trees and grading and other aspects of the proposed development.

Arpita Muchhal of 156 Tokeneke Road said that she is concerned about the wall height and about any changes that may occur to the drainage system. In this case, she is very concerned about a channel of water on her side of the proposed retaining wall. Mr. McAllister said that he will attend the EPC meeting on September 7, 2016 and will return to the Planning & Zoning Commission with

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responses to the issues and concerns. The Planning & Zoning Commission will continue the public hearing regarding this matter on September 13, 2016 at 8 P.M. in the Town Hall.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #312, Flood Damage Prevention Application #358, Land Filling & Regrading Application #389, Brush Island Road 17, LLC, 17 Brush Island Road. Proposal to raze the existing cottage; construct a single-family residence with associated septic system, patio, pool, and stormwater management; and to perform related site development activities within regulated areas. The subject property is located on the north side of Brush Island Road, approximately 1,200 feet west of its intersection with Nearwater Lane, and is shown on Assessor's Map #56 as Lot #19, in the R-1 Zone.

Tom Nelson, Professional Engineer of McChord Engineering, explained that there is a common driveway on the northeast side of Brush Island Road. This common driveway services a number of existing houses including the subject property. The site contains 1.23 acres and is adjacent to Holly Pond. The plan is to remove the small cottage on the property and replace it with a new house, attached garage, and proposed swimming pool. Mr. Nelson said that the Base Flood Elevation in the area is 14 feet above North American Vertical Datum 1988 (NAVD 88). The proposed house will be on the high portion of the property so that the entire house will be outside the Flood Hazard Zone. The storm drainage system designed for the project will take runoff water from the driveway and house and pipe it to a proposed rain garden to be located in the northwest corner of the property. Mr. Nelson said that the design is to take the first flush of rainfall and deal with the water quality as opposed to trying to detain water for a long period time and manage stormwater quantity. He said that currently in the area of the rain garden, there is lawn that extends down to the edge of Holly Pond.

Kate Throckmorton of Environmental Land Solutions reviewed the planting plan and noted that a wooded buffer will remain along much of Holly Pond to the east of the proposed rain garden and along the easterly property line. New trees will be added in the northeast corner of the property and protection will be needed for preservation of the two Copper Beech trees to be saved on the site. She noted that the landscaping plan and site development plan show a possible pier/dock being located in roughly the center of the northerly property line. They will need to obtain permits from the Connecticut Department of Energy & Environmental Protection (DEEP) before they can install that pier/dock.

A Commission member noted that although most of the house is located more than 100 feet from Mean High Water, a corner of the house is within the 100 foot critical area adjacent to Mean High Water. He also noted that the entire pool is within the 100 foot Coastal Area Management (CAM) critical area. Neither of these are acceptable designs.

Paul Harris, Project Architect, noted that there are several restrictions on the buildable portion of the site and they took into account the setbacks from property lines, the large trees to be preserved, the flood hazard areas, the topography of the property and the 100 foot CAM area. The proposed six bedroom house (6,900 square feet on the first and second floor plus a 3 car garage) is almost entirely out of the CAM area but a small portion does protrude into that critical 100' CAM review area. Ms. Cameron said that the proposed swimming pool should also be outside the 100 foot

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critical CAM area. Mr. Ginsberg read aloud the comments from the CT DEEP indicating that to be more consistent with the CAM program, all of the structures should be at least 100 feet from Mean High Water. Mr. Olvany said that the Commission has to be consistent. Mr. Sini said that in most cases of new construction, the Commission has required that the entire house and proposed pool be outside of the 100 foot critical area. If anything a small portion of the pool has been in the 100 foot area but not the entire pool. Ms. Cameron said that a lot of design changes need to be made to better respect the Regulations and the Coastal Area Management Program. Mr. Harris said that a three bay garage is not uncommon for a new house on Brush Island Road. Ms. Cameron said that other sites are not the same as the subject property and that there are other design changes that can be incorporated to keep all of the structures out of the 100 foot critical area.

There were no comments from the public regarding the application. The Commission felt that it would be best to continue the public hearing so the applicant can redesign the project rather than closing the public hearing at this time. The Commission decided to continue the public hearing on this matter on September 13, 2106 at 8 P.M. in the Town Hall.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #313, Flood Damage Prevention Application #359, Land Filling & Regrading Application #390, Brush Island Road 21, LLC, 21 Brush Island Road. Proposal to raze the existing house and garage; construct a single-family residence with associated septic system, patio, pool, and stormwater management; and to perform related site development activities within regulated areas. The subject property is located on the north side of Brush Island Road, approximately 1,200 feet west of its intersection with Nearwater Lane, and is shown on Assessor's Map #56 as Lot #18, in the R-1 Zone.

Tom Nelson, Professional Engineer of McChord Engineering, explained that this is also a rear lot on the northwest portion of Brush Island Road. This is one of the houses accessed by the common driveway. The parcel is also immediately adjacent to Holly Pond and includes 1.56 acres of land. The high point of the property is in the southeast corner and it slopes down toward Holly Pond from there. In order to keep the house out of the floodplain, they are proposing to fill and regrade to raise the ground level from 10 or 11 up to Elevation 14 or more adjacent to the proposed house. The Base Flood Elevation (BFE) is 14 feet above North American Vertical Datum 1988 (NAVD 88). Mr. Nelson said that stormwater from the proposed driveway, house and patio will be collected and piped to a proposed rain garden in the northeast corner of the property. A septic system will be located north and slightly west of the proposed house. Both the rain garden and the septic system are within the 100 foot critical Coastal Area Management (CAM) area adjacent to Holly Pond. The proposed house is more than 100 feet from Holly Pond however the proposed swimming pool is entirely within the 100 foot CAM review area. Commission members asked if it was possible to combine the proposed rain garden on the subject property with the proposed rain garden on #17 Brush Island Road. Mr. Nelson said that for ownership responsibility and maintenance purposes it would be better to maintain two separate rain gardens.

Kate Throckmorton of Environmental Land Solutions reviewed the environmental report that she submitted and the detailed landscaping plan. She said the landscaping plan includes preservation of the natural vegetation along the westerly property line. That vegetation is immediately adjacent to Holly Pond. The northerly property boundary adjacent to Holly Pond will be supplemented with

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new vegetation. Along the north boundary line, there will be a 5 to 10 foot wooded edge created along the Pond. Along the westerly property boundary, there is a 10 to 20 foot wide existing wooded edge along the Pond. Mrs. Throckmorton noted that the existing design calls for the preservation of the large Copper Beech tree which is located south of the existing house to be removed and south of the proposed dwelling. During construction, careful preservation measures must be implemented to preserve the tree.

Mr. Ginsberg read aloud the comments from the CT DEEP. They note that the septic is partly in the floodplain and entirely within the 100 foot CAM area and that it would be best to keep all structures as far away from Holly Pond as possible. Mr. Nelson said that the existing septic system is being replaced with a new code compliant septic system. Mr. Nelson said that the septic system is located in good quality material that will provide adequate leaching area.

Mr. DiDonna expressed concerns about five large houses being served by one common, narrow driveway. Mr. Ginsberg said that he understands there is a written agreement about the ownership and maintenance of the common driveway and that the owners of the properties at #17 and #21 Brush Island Road are parties to the agreement.

Mr. Voigt expressed concern about the proposed pool being entirely within the CAM review area. He said that the house design could certainly be modified to include the pool within the buildable area and be more than 100 feet from Holly Pond. Paul Harris, Project Architect, said that a three bay garage is typical for new houses on Brush Island Road and that this lot, although larger in size than the adjacent property at #17 Brush Island Road, actually has a relatively small buildable area.

Ms. Cameron said that it would be appropriate to see if the Beech tree is healthy and worth saving or if it is declining and it would therefore not be worth preserving. Commission members said that it would be appropriate to continue the public hearing so that the applicant can redesign the proposed development to address the concerns that have been expressed about the 100 foot critical coastal review area. There were no comments from the public. The Commission decided to continue the public hearing regarding this matter at the meeting of September 13, 2016 at 8 P.M. in Town Hall.

At about 9:25 p.m., Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #290-A, Land Filling & Regrading Application #310-B, Paul & Kimberly Huffard, 203 Long Neck Point Road. Proposal to construct a single-family residence with detached structures, an in-ground swimming pool, and associated filling and regrading, and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road, approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #9 in the R-1 Zone. *PUBLIC HEARING OPENED ON 7/19/2016.*

Scott Raissis, Project Architect, explained that this property is located on the east side of Long Neck Point Road and consists of approximately 4.8 acres of land. The applicant proposes to place the eastern most part of the property, which is adjacent to Long Island Sound, into a conservation easement. The area covered by the conservation easement would be 1.964 +/- acres. The remaining

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2.79 acres on the westerly portion of the site will be developed for the proposed house, garage, swimming pool, spa, greenhouse and shed. The property will remain one single parcel but a conservation easement will cover the easterly portion. Mr. Raissis said that none of the proposed work or development would be within the 100 foot critical Coastal Area Management (CAM) area. The closest development activity would be approximately 300 feet from Mean High Water of Long Island Sound.

Commission members reviewed the plans and noted that detailed test borings had been conducted at the house site. Mr. Raissis explained that the property owner wants to make sure that there are no surprises. Ms. Cameron mentioned that during previous reviews regarding this property, a neighboring property owner to the north indicated that they had the right to access Long Island Sound along the northerly portion of the subject property. She wondered if the proposed conservation easement or development would impact the neighbor's access. Mr. Raissis indicated that the proposed development would not impact the neighbor's ability to access Long Island Sound. In response to questions, he said that the house would contain 5 bedrooms and approximately 14,000 square feet of interior space.

There were no comments from the public regarding the application. Mr. Ginsberg read aloud the comments from CT DEEP. They had no issues with the proposed work. He said that he understands the conservation easement would be granted to the Darien Land Trust and that the final language of that easement would be worked out in the future.

There being no further questions or 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. DiDonna and unanimously approved.

Chairman Cameron read the following two agenda items:

Continuation of Public Hearing regarding Special Permit Application #259-A, Paula Glenges, 97 Noroton Avenue. Proposal to establish a **sushi take-out business** in a portion of the first floor of the existing building. The subject property is located on the southwest corner formed by the intersection of Noroton Avenue and Maple Street, and is shown on Assessor's Map #43 as Lot #43 in the Neighborhood Business (NB) Zone. *PUBLIC HEARING OPENED ON 7/19/2016.*

Continuation of Public Hearing regarding Special Permit Application #259-B, Paula Glenges, 97 Noroton Avenue. Proposal to establish a **color bar/beauty salon/hairdresser/barber shop personal service business** in a portion of the first floor of the existing building. The subject property is located on the southwest corner formed by the intersection of Noroton Avenue and Maple Street, and is shown on Assessor's Map #43 as Lot #43 in the Neighborhood Business (NB) Zone. *PUBLIC HEARING OPENED ON 7/19/2016.*

Mr. Ginsberg indicated that there is an existing two story building on the property. It is located in a Neighborhood Business (NB) commercial zone. The ground floor has two small commercial spaces, each of approximately 1,000 square feet. The second floor has an apartment. At present, there is a flower shop on the right hand side (the northerly portion of the building) and there has

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been an exercise/personal health consultant in the commercial space on the left (the south side of the building).

Ms. Cameron said that there is very limited on-site parking and she is very concerned about the proposed uses for this site because they would appear to generate the need for considerable on-site parking. For example, if the hair salon has three workers, they would have at least three work stations for customers. This is likely to generate the need for at least six (6) on-site parking spaces. That need would be in addition to the parking spaces required for the apartment and for the other commercial occupant of the building.

Paula Glenges said that she loaded the parking lot with cars and took pictures to demonstrate to the Commission that many cars can fit on the property. Commission members noted that each parking space must be at least 9 feet wide and 20 feet deep and have a 24 foot unobstructed back-up aisle. Mrs. Glenges said that the apartment residents and the guests can fit on the parking spaces on the north side of the building adjacent to Maple Street. Six or more cars can park in front of the commercial spaces that face Noroton Avenue. Emina Pelinkovic explained that she plans to operate the color bar/beauty salon by herself to start. In the future she hopes to have three workers and that would mean three customer work stations. Mrs. Glenges said that the flower shop is not very busy and they have just one customer at a time.

Ms. Cameron and Mr. Sini expressed their concern about on-site parking. Alex Poon said that he will run the sushi sales business primarily as delivery but also a drop in and pick up business. They will not have customers eating on site.

Mr. Olvany said that a review of the floor plan for the color bar/beauty salon indicates that there would be spaces for more than three customers at a time plus spaces for the customers to be in the waiting area. This would create additional on-site parking demand. He asked if the business would be operated by appointment only. Mrs. Pelinkovic confirmed that it would be by appointment only.

Commission members asked which proposed use would be more important to the property owner. Mrs. Glenges responded that she would prefer to have the color bar/beauty salon established now. Commission members recommended that if the color bar/beauty salon is approved that they would be concerned about the numbers of cars parked on the site for employees and customers, particularly at peak time periods. If the color bar/beauty salon is to be approved, then the proposed sushi business should be withdrawn at this point. Depending on the parking situation, the sushi sales facility would need to be resubmitted in the future, but the Commission cautioned that the lack of sufficient on-site parking will be an important factor in their determination. Mrs. Glenges withdrew the sushi application.

There were no comments from the public on this application. The following motion was made: That the Planning & Zoning Commission acknowledge the withdrawal of Special Permit #259-A for the sushi take out business and close the public hearing regarding Special Permit #259-B for the color bar/beauty salon. The Commission will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved.

At about 9:50 p.m., Chairman Cameron read the following agenda item:

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Continuation of Public Hearing regarding Land Filling & Regrading Application #387, Warren & Holly Friend, 18 Crooked Mile Road. Proposal to place fill and regrade, and to perform related site development activities. The subject property is located on the northwest side of Crooked Mile Road approximately 1,000 feet east of its intersection with Hollow Tree Ridge Road and Crooked Mile Road, and is shown on Assessor's Map #3 as Lot #54 in the R-2 Zone. *PUBLIC HEARING OPENED ON 7/19/2016.*

Doug Rivera, a foreman with Round Meadow Landscapes, explained that the applicant proposes to bring in approximately 120 cubic yards of clean fill and 60 cubic yard of screened top soil to rework a 10,000 square foot area located to the right of the entrance driveway. They will be installing a rain garden at the lowest corner of the property but the remaining 10,000 square feet of land will become a new lawn area. The 120 cubic yards of fill is necessary to flatten the area and the 60 cubic yards of top soil is necessary for the proposed lawn.

Ms. Cameron questioned the need for the rain garden. It was acknowledged tht no additional structures or impervious surfaces are proposed.

There were no comments from the public regarding the application. Mr. DiDonna said that he had looked at the property and felt that the proposed changes would improve the site. 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. Sini, and unanimously approved.

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. DiDonna and unanimously approved. The meeting was adjourned at 9:55 P.M.

The next meeting of the Commission will be on September 6, 2016.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director