

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING / PUBLIC HEARING  
SEPTEMBER 13, 2016**

Place: Room 206

TIME: 8:00 P.M.

**PLANNING & ZONING COMMISSION MEMBERS ATTENDING:**

Cameron, Cunningham, Olvany, Voigt (left at 8:40 p.m.), Sini, Jr. (arrived at 8:20 p.m.)

**STAFF ATTENDING:** Ginsberg, Keating (arrived at 9:20 p.m.)

**RECORDER:** Syat

Channel 79

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

**EXECUTIVE SESSION**

**Executive Session with Town Counsel and Staff to discuss pending litigation.**

Mr. Olvany made a motion to go into Executive Session with Town Counsel and Department staff to discuss pending litigation. That motion was seconded by Mr. Voigt and was unanimously approved by a vote of 4-0.

Attorney John Louizos noted the last Executive Session was held on August 2, 2016. He then discussed a pending litigation matter with the four Commission members present. In the Executive Session, no votes were taken.

At about 8:12 p.m., Mr. Voigt made a motion to adjourn the Executive Session. That motion was seconded by Mr. Olvany, and unanimously approved by a vote of 4-0.

At about 8:15 p.m., Chairman Cameron then read the first agenda item:

**GENERAL MEETING**

**Authorize Town Counsel to enter into a Stipulated Judgment in the matter of FST-CV-15-6026873-S, David & Rhonda Sherwood v. Darien Planning & Zoning Commission.**

Mr. Voigt made a motion to authorize Town Counsel to enter into a Stipulated Judgment in the matter of FST-CV-15-6026873-S, David & Rhonda Sherwood v. Darien Planning & Zoning Commission. That motion was seconded by Mr. Cunningham and approved by a vote of 4-0.

Chairman Cameron then read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding 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

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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.

*TO BE IMMEDIATELY CONTINUED TO 9/27/2016.*

Chairman Cameron announced that this public hearing matter is immediately continued to September 27, 2016 at 8 P.M. in Darien Town Hall. She then read the following agenda item:

**Continuation of Public Hearing regarding Flood Damage Prevention Application #189-B, Land Filling & Regrading Application #372-A, Michael Nikolas, 2 Silver Lakes Drive.** Proposal to construction 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. *PUBLIC HEARING OPENED ON 8/9/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 9/13/2016, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Professional Engineer Steve McAlister of McChord Engineering was present on behalf of the applicant. He explained that the newest version of the plans show the proposed easternmost retaining wall is moved 10 feet in from the east property line of 2 Silver Lakes Drive. In addition, the neighbor to the east has asked him to do his best to save the 36 inch oak tree in the southeast corner of the property. In response to that, they have revised the plans to pull in the retaining wall and curve it such that it is further away from that oak tree. He then showed details of the wall. Mr. McAlister also noted that the pool which was shown on the previous plans had been eliminated on this version of the plans. In response to a question, he explained that the proposed propane tank is not in the flood zone, but if it is in the flood zone, it will be properly strapped down in order to meet the flood regulations. Mr. McAlister explained that there will be both filling and cutting on the property, that part of the property is in the flood zone.

Ms. Cameron recalled that there was a section of the Zoning Regulations dealing with preservation of significant trees. Mr. Ginsberg explained that Section 853f of the Zoning Regulations reads "preservation of significant trees, vegetation and other natural resources" shall be provided. Mr. McAlister explained that on the survey it shows 16 eight inch and greater in size trees on the subject property. They will be removing 10 of them. He explained that the August 31, 2016 plan is the most current and the tree in the southeast corner will stay. Ms. Cameron believed that the oak trees on the eastern side of the property should be saved. Mr. Ginsberg explained that Professional Engineer Joe Canas of Tighe & Bond peer reviewed the subdivision application (which had been approved earlier this year) and that can be made part of the record in this matter for the filling and regrading. Commission members agreed that Mr. Canas' report should be made part of this record.

Mr. Mike Nikolas, the owner of the subject property, explained that some trees will be too close to the proposed house. He said that he is concerned about safety. He said that there are many trees on the property which are under 8 inches in size which are not shown on the plans which he intends to keep. Ms. Cameron asked whether the existing house has flooded in the past. Mr. Nikolas acknowledged that while he has only owned the property for a short time, neighbors have mentioned that this house has never flooded. He also explained that stormwater management will

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be part of his proposal, which is not part of the current house plan on site. He will also make any new house FEMA compliant – the existing house is not.

Mr. John Ricci of 154 Tokeneke Road explained that he is the neighbor directly to the east and had submitted a letter and photos to the Commission for the record. He explained that he is pleased with this plan revision which saves the oak tree and moves the retaining walls 10 feet in from his shared property line. There being no other comments from Commission members or the general public, Mr. Olvany made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini, and unanimously approved.

At 8:40 P.M., Mr. Voigt then left the meeting and Ms. Cameron read the next agenda item.

**Continuation of Public Hearing regarding 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.  
*PUBLIC HEARING OPENED ON 8/9/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 9/13/2016, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Professional Engineer Tom Nelson of McChord Engineering was present on behalf of the applicant. He explained that the house plans had been revised significantly and he distributed his revised plans to Commission members. Mr. Ginsberg then explained the changes made since the last public hearing which include pulling the house and pool further away from Holly Pond and reducing the house in size. Mr. Nelson explained that digital copies of the revised plan had been sent to Rich Jacobson of department staff who said that this does not need to go back to the Environmental Protection Commission. The EPC had previously approved the plans and these plans are consistent with those previously approved plans. Mr. Nelson explained that the entire house is now greater than 100 feet from Holly Pond and the rain garden is in the same location as previously approved. The septic system has been revised. He then identified the location of the proposed pool fencing. In response to a question, Mr. Nelson noted that the septic system must be at least 50 feet from the watercourse. Mr. Ginsberg stated that the State of Connecticut DEEP sent an email dated July 11, 2016 on this application.

Ms. Kate Throckmorton of ELS then submitted her updated plans last revised September 13, 2016. She also submitted a September 1, 2016 letter from an arborist regarding the existing 72 inch and 96 inch beech trees which are on this property. The arborist noted that these trees are in good condition and Ms. Throckmorton mentioned the efforts being made to save those trees.

Architect and designer Paul Harris explained that the proposed plans that the Commission has before them tonight is a new house which has been redesigned from scratch. Ms. Cameron asked whether the pools are the same size in the original versus this new, revised plan. Mr. Harris responded that the old plan showed a pool of about 18' x 35' and standard pool is about 20' x 40'. He explained that the pool is flush with the ground and has not changed in size generally from the 18' x 35' on the old plan. Mr. Harris reviewed the proposed pool fence solutions and reviewed

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what he is proposing here for this property which is a paddock fence of unpainted cedar lined with a wire grid. Mr. Sini believed that it would be appropriate to put the fence near the existing trees near Holly Pond since those trees and plantings would help hide the fence.

There were no further comments from the Commission members and there were no members of the public who wished to speak on this application. Mr. Olvany then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini and unanimously approved.

At about 9:05 P.M., Ms. Cameron then read the next agenda item:

**Continuation of Public Hearing regarding 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. *PUBLIC HEARING OPENED ON 8/9/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 9/13/2016, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Professional Engineer Tom Nelson of McChord Engineering was present on behalf of the applicant. He explained that in response to the Commission questions and concerns at the last public hearing, they have redesigned the proposed house. Efforts have been made to try to save the large tree on the property. Mr. Nelson then submitted revised plans dated September 13, 2016. The goal of these plans was to pull the proposed residence further from Holly Pond and preserve the existing 96 inch beech tree. They showed the proposed retaining wall on the plan and Mr. Nelson explained that they have tweaked the septic system from the previous version of the plans. Mr. Nelson showed the existing 100 foot CAM line on the plans relative to the proposed development.

Ms. Kate Throckmorton of ELS then distributed her revised plans dated September 13, 2016. She described the efforts to save the tree by saving the wall of the existing residence during most of the construction.

Mr. Paul Harris, the architect/designer, explained that all structures proposed for this property will be out of the flood zone. He confirmed that they have completely redesigned the house pursuant to the Commission's request of the last public hearing. He noted that they will leave the foundation of the existing house intact in order to better preserve that existing tree which is to the west of the house. This will minimize possible disturbance during the construction process. He said that the proposed residence will have five bedrooms, and will be smaller than the previously proposed residence. He then reviewed with the Commission the plantings proposed along the face of the proposed wall to minimize the visual impact of that wall. In response to a question, it was noted that the last survey of the property is dated September 9, 2016.

No members of the public were present to speak on the application. There being no further Commission member comments or concerns, Mr. Sini made a motion to close the public hearing on this matter. That motion was seconded by Mr. Olvany and unanimously approved.

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At about 9:25 P.M., Ms. Cameron read the next agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #314, Land Filling & Regrading Application #392, Clover Properties, LLC, 67 Salem Straits.** Proposal to construct a replacement single-family residence with in-ground pool; regrade for a new retaining wall and garage back out area; and to perform related site development activities within a regulated area. The subject property is located on the north side of Salem Straits approximately 200 feet northeast of its intersection with Candlewood Lane, and is shown on Assessor's Map #62 as Lot #65 in the R-1 (Residential) Zone. *PUBLIC HEARING OPENED ON 7/26/2016 AND WAS IMMEDIATELY CONTINUED TO 9/13/2016.*

Mr. Ginsberg explained that the proposal is for a replacement residence across the street from Scott's Cove, on a property which has a sloping driveway up to ledge. Architect Jacek Bigosinski explained that the plans show Cultec units behind the proposed residence. The applicant proposes a geothermal system and thus will not need outdoor air conditioning units. He then showed on the plans the trees to remain and the trees to be removed. He said that in this case, blasting would be better than hoe ramming or chipping. Mr. Bigosinski explained that the Murphys next door are concerned about their geothermal system. In response to a question, Mr. Bigosinski responded that they will be removing about 10 truckloads of rock. Professional Engineer Wayne D'Avanzo was present on behalf of the applicant. He explained the proposed rain garden which is proposed for southwest of the proposed pool.

Attorney Amy Zabetakis was present on behalf of the neighbors, the Murphys. Attorney Zabetakis confirmed that she had sent a letter for the file dated September 13, 2016. She wanted to make it clear that the Murphys did not ask for any revisions to the plans, only clarifications to some questions that they have. She said that the Murphys still have some concerns. One of the concerns is there is no evidence of any testing near the proposed detention basin. Attorney Zabetakis then outlined some of the Murphy issues.

Mr. Ginsberg then read aloud the comments received from Town Engineer, Darren Oustafine, dated July 11<sup>th</sup> and July 20<sup>th</sup>. Those had previously been submitted for the record and given to the applicant. Mr. D'Avanzo confirmed that via the Cultec system in the backyard, they are reducing runoff. Ms. Cameron noted the importance of cleaning any culvert which would allow drainage to flow better in the neighborhood.

Ms. Aleksandra Moch, who was present on behalf of the applicant, explained that they could eliminate the proposed Cultec units in the backyard since they are so close to tidal wetlands across the street. Ms. Cameron explained that Engineer D'Avanzo said that the Cultecs would be desired while Engineer Oustafine said the Cultecs are not necessary. Ms. Cameron confirmed that the applicant needs to make a final decision on what they are proposing before the Commission can rule on it. Builder Bob Calve of Fox Hill Builders said that they would be willing to replace the culvert on the 67 Salem Straits property and may need to widen the driveway which in certain spots is only seven feet wide currently.

Ms. Cameron summarized by stating that there are some details that need to be worked out by the applicant and clarified for the Commission. These are a final decision on the stormwater management to be installed – whether Cultecs will be placed in the backyard or whether only water

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quality will be addressed; whether the culvert will be replaced only on the applicant's property or in other locations to the north and south of it, and, if so, how will the culvert be replaced; and will the driveway be made wider as part of this application. In addition, Mr. Ginsberg noted it would be important to show the flagged wetlands on a scaled map so it can be determined if EPC approval is necessary for any of the proposed work. Commission members agreed that it would be appropriate to continue this matter to September 27, 2016 at 8:00 P.M. in Room 206 of Town Hall. Architect Bigosinski agreed.

At about 10:05 P.M., Ms. Cameron read the following agenda item:

**Continuation of Public Hearing regarding Special Permit Application #42-I/Site Plan, Land Filling & Regrading Application #391, Parklands Office Park, LLC, 1 Parklands Drive.** Request to raze the existing 1 Parklands Drive office building and construct a new Assisted Living Facility/Memory Care Facility, and to perform related site development activities. The subject property is located on the south side of Parklands Drive, approximately 500 feet south of its intersection with Old King's Highway North, and is shown on Assessor's Map #35 as Lot #34, in the DOR-1 Zone. *PUBLIC HEARING OPENED ON 7/26/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 9/13/2016 UNLESS EXTENSION OF TIME IS AUTHORIZED BY APPLICANT.*

Mr. Ginsberg explained that at the last public hearing many issues were resolved relative to the proposed ALF facility on the Parklands property. The applicant is here tonight since the last step was to get final review and comments from the Architectural Review Board. Professional Engineer Craig Flaherty of Redniss & Mead explained that they were before the Architectural Review Board earlier this evening for review of the facades of the building and the lighting. Mr. Flaherty then described the proposed colors and styles of the new building. He then referred to Sheet C-10 and the exact lighting design that the ARB recommended. He also submitted an updated photometric plan for the record in this matter. Mr. Flaherty confirmed that in response to comments from a new neighbor at 15 Fairmead Road, a supplemental landscape plan was prepared and that plan was dated September 6, 2016 and was submitted for the record in this matter.

There were no further comments from Commission members and no members of the public were present to speak to this application. Therefore, Mr. Sini made a motion to close the public hearing on this matter. That motion was seconded by Mr. Olvany and unanimously approved.

At 10:10 P.M., Ms. Cameron then read the following agenda item:

**Continuation of Public Hearing regarding Business Site Plan #110-G/Special Permit, H&L Chevrolet, 1416 Boston Post Road.** Proposal to construct a one-story addition to the existing building to enlarge the interior repair shop and to update certain site features; and to perform related site development activities. The subject property is located on the east side of Boston Post Road, approximately 300 feet north of its intersection with Hecker Avenue, and is shown on Assessor's Map #63 as Lot #15, #16, and #17 in the Service Business (SB) Zone. *PUBLIC HEARING OPENED ON 7/26/2016 AND WAS IMMEDIATELY CONTINUED TO 9/13/2016.*

Attorney Robert F. Maslan, Jr. was present on behalf of the applicant. He noted that the proposal is for a 2,027 square foot addition which would comprise two additional service bays for H&L Chevrolet. He said that the issues to be discussed include related lighting, landscaping and paving.

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Mr. Maslan then showed 16 photographs of the subject property which gave the Commission a sense of the various landscaping and fencing which now exists. He confirmed that the addition will be one story in height and include two service bays. This addition would be no higher than the existing building and not visible from Boston Post Road since the addition would be off the back of the building. Architect Jacek Bigosinski confirmed that the parking lot lights which now exist are usually on from 6:00 to 8:00 P.M. They wish to replace those lights one by one over time and fix those fixtures over time. They will use 3,000k LED lights with total cutoff. Mr. Ginsberg then referred to an email earlier in the day from Captain Don Anderson relative to potential safety and crime issues which parking lot lighting could help resolve. Building Owner Dan Haimes of H&L Chevrolet explained that currently the parking lot lights are on until 8:00 P.M. and they can live with an 8:00 P.M. time cutoff. Mr. Sini explained that the Planning & Zoning Commission cannot really approve a phase in of new lighting without a formal plan. Mr. Haimes responded that they hope to eliminate three existing light poles. Mr. Olvany asked how tall the existing light poles are and the new ones will be. Mr. Haimes responded that the light poles are now 18 feet in height.

Mr. Ginsberg then read aloud from Section 944c of the Zoning Regulations relative to the need for buffers and the Commission's ability to waive the buffer under Section 944c. Ms. Cameron explained that Mr. Haimes should not remove any plantings. Mr. Maslan said that their goal really is to build the addition in the short term and withdraw the other elements of the application and return to the Commission in the future once those elements are finalized and final plans prepared. Mr. Olvany agreed that that would be appropriate. Mr. Ginsberg noted the applicants went before the Architectural Review Board (ARB) earlier this evening for the proposed addition. Mr. Maslan responded that the ARB did recommend the proposed addition; however, they would need to return to the Architectural Review Board for the request to paint the building blue and gray. That portion of the request was not recommended by the ARB. In summary, Mr. Maslan said that H&L Chevrolet will return to the Planning & Zoning Commission in the near future with a formal application relative to the fence, the landscaping, the paving and the lighting. However, they are going forth with the proposal for the building addition this evening. There were no members of the public present to discuss the application. The Commission noted that a letter had been received from neighbor Clara Sartori on Old King's Highway South.

There being no further questions or comments from Commission members, Mr. Sini made a motion to close the public hearing on this matter noting that many facets of this application, the fence, the landscaping and the lighting have been withdrawn. Mr. Sini seconded the motion to close the public hearing. That motion was then approved by a vote of 4 to 0.

There being no other business, Mr. Sini made a motion to adjourn the meeting at 10:45 P.M. That motion was seconded by Mr. Olvany and unanimously approved.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Assistant Director

David J. Keating  
Planning & Zoning Assistant Director