

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
SEPTEMBER 27, 2016**

Place: Room 206

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

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

GENERAL MEETING

Discussion and deliberation ONLY regarding the following five items (no decisions to be made):

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.

Mr. Ginsberg noted that the property was the subject of a subdivision about a year ago. The development plan has been revised to reduce some of the filling and regrading and therefore the retaining walls farther from the property lines of the neighbors to the east and farther from Tokeneke Road. Ms. Cameron said that this is a very sensitive site and that numerous trees will need to be removed to make way for the house and the proposed regrading. A few Commission members expressed reservations with the project. The Commission requested that staff draft a resolution for consideration at a future meeting.

Chairman Cameron read the following agenda items:

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.

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.

Mr. Ginsberg said that the revised plans had been submitted and the proposed houses had been relocated to be outside the 100 foot critical area adjacent to Holly Pond. The pools are still within

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the 100 foot critical area. Ms. Cameron noted that the revised plans will save a large beech tree in the vicinity of the house and other trees elsewhere on the properties. Commission members felt the revised plans were acceptable and were saving the natural areas near Holly Pond. They asked staff to draft resolutions for consideration at a future meeting.

Chairman Cameron read the following agenda item:

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.

Commission members noted that the skeleton of the existing building will be preserved and the building use will be substantially expanded and renovated. It is therefore not a complete razing of the existing building. They said that the neighbors seemed to be satisfied with the planting and landscaping designs that had been submitted. There was some discussion about the fence and the crosswalk issues. The Commission members did not see these items as problems. There was discussion about whether the 18 parking spaces along the access driveway should be constructed at this time or if the construction of those spaces should be delayed. They asked the staff to draft a resolution for consideration at a future meeting.

Chairman Cameron read the following agenda item:

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.

Commission members felt the addition to the rear of the building was okay. The color of the proposed addition and of the existing building needs to go back to the Architectural Review Board for further consideration. Commission members felt it would not be appropriate to hold up the decision about the addition waiting for the resolution of the lights, pavement and landscaping. Those items must come back to the Commission in the near future and need to be properly resolved. They asked staff to draft a resolution for consideration at a future meeting.

Chairman Cameron read the following agenda item:

Any Other Business (Requires two-thirds vote of Commission)

A motion was made by Ms. Cameron, seconded by Mr. Sini to discuss scheduling of future meetings under Other Business. The motion was unanimously approved. Mr. Ginsberg said that major items that need to be considered including interviews for replacement for Richard DiDonna, deliberations regarding the Corbin Drive project, and the blight ordinance, which is proposed in the community. Commission members decided that all three of these items should be placed on the October 4 agenda.

Chairman Cameron 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 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. *PUBLIC HEARING WAS ORIGINALLY OPENED ON 8/9/2016. HEARING TO BE IMMEDIATELY CONTINUED TO 10/4/2016.*

Ms. Cameron announced that this item was immediately continued to October 4, 2016.

Chairman Cameron read the following 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 backout 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. 9/13 PUBLIC HEARING WAS CONTINUED TO 9/27.*

Project Architect Jacek Bigosinski submitted a September 26, 2016 letter from the owner, who could not be present for the meeting. Copies were submitted for each member and for Attorney Zabetakis, who represents the neighbor. Mr. Bigosinski noted that the minimal amount of blasting proposed on the site would be quicker and less annoying, but it seems that all the other neighbors would prefer to avoid any blasting and would prefer to have chipping or hoe ramming of the rock. Mr. Bigosinski said that the basement design has been shifted to minimize the amount of necessary excavation and rock chipping in that area. Mr. Ginsberg said that he spoke with some of the neighbors and/or their representatives and they do prefer hoe ramming or chipping of the rock compared to blasting. He said that it might be appropriate to limit the amount of hoe ramming for a certain number of days. Mr. Bigosinski said that the revised plan removes the underground Cultec unit from the rear of the house and moves the rain garden in the front of the house to minimize regrading. They will be dealing with stormwater runoff for water quality purposes rather than trying to detain a 50 year design storm. They will be cleaning out the reinforced concrete pipe from the neighboring Murphy property through the subject property. If the pipe is damaged or destroyed during the construction process, they will need to return to the Environmental Protection Commission (EPC) to request a replacement. He said that the existing driveway will remain in the same location and it is 10 feet wide at its narrowest and 17 feet wide at its maximum width. The existing driveway will be resurfaced rather than being relocated. If circumstances change they will need to return to the EPC and then the Planning & Zoning Commission again.

Attorney Amy Zabetakis, represented a neighboring property owner, said that the improvements that are planned are notable but asked the Planning & Zoning Commission to review the LandTech letter from last time. She did ask that the Commission limit the number of days of hoe ramming .

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Tom Murphy spoke and said that he appreciated the changes by the applicant and would prefer the hoe ramming to blasting because of wells in the area and the age of the structures in the area.

There being no further questions or comments, the following motion was made: That the Planning & Zoning Commission close the public hearing on this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Special Permit Application #266-A, Site Plan Application #279-A, Land Filling & Regrading Application #259-A, Maplewood at Darien, 581-599 Boston Post Road. Proposing to demolish the building at 581 Boston Post Road; combine the property with 599 Boston Post Road; and to construct an addition to the existing Assisted Living and Memory Care building--with units for both traditional assisted living and for memory care; to create underground parking, and to perform related site development activities. The subject properties are on the north side of Boston Post Road, approximately 285 feet east of the intersection of Brookside Road, and are shown on Assessor's Map #14 as Lots #33 (599 Boston Post Road) and #34 (581 Boston Post Road) and are located in the DB-2 and R-1/2 Zones.

Ms. Cameron said that one of the key things that the Commission asked for was to eliminate the parking of delivery vehicles on the Boston Post Road. She said that the current plan does not have any pull off area for delivery vehicles and this is a major problem that has not been addressed.

Attorney Amy Zabetakis represented the applicant and indicated that the proposed expansion of the building will occupy an adjacent property to the east. Part of the plan eliminates the curb cut on the Boston Post Road in front of that adjacent property. The elimination of the curb cut was acceptable or desirable by the State and creating a pull off in that area might be within the State right-of-way. Ms. Cameron said that the parking of delivery vehicles on the Boston Post Road is a serious problem that must be addressed. Mr. Sini agreed that a solution to this problem must be part of the plan. Attorney Zabetakis said that they did look into adding a space in front of the building but it was not feasible. They met on site with Captain Anderson of the Darien Police Department. She noted that some of the delivery vehicles that stop in front of Maplewood were not actually making deliveries to the facility. Mr. Sini said that it is necessary to improve this situation and correct the existing problem of vehicles that do make deliveries to Maplewood. Attorney Zabetakis said they looked at five or six versions and it is challenging to get the Department of Transportation (DOT) to approve the parking or pull off area in their right-of-way.

Ms. Cameron said that during site visits to Maplewood over the course of two months she noticed that the parking of vehicles on the Boston Post Road was an on-going problem. She visited the site again today and saw that it was still a problem. Attorney Zabetakis said that the expansion of the parking area below the building (the underground garage) will help to address the necessary parking for employees and the large number of visitors that come to the Darien site to visit patients/residents. She said that they are adding more parking than is required by the Regulations and they plan to maintain the lease with the church throughout the construction project and even after the new parking is created in order to have sufficient parking for visitors. Ms. Cameron expressed that she did not think it was appropriate to continue the rest of the presentation if the driveway adjacent to Boston Post Road is not fixed as part of the proposal. Other Commission

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members agreed. Kevin Malone said that he will look at possible solutions and will discuss them with the DOT.

Attorney Zabetakis asked the Commission if they cannot solve the driveway issue, then is the project not acceptable? She said that creating an on-site delivery area would possibly eliminate a courtyard and light well for the new ground floor units within the proposed addition. Mr. Voigt said that maybe the building needs to be shorter to allow the delivery vehicles on the side of the building, or the building needs to be otherwise redesigned so that delivery vehicles will not be parked on the Boston Post Road as they have been. Mr. Sini said that more units in the building would mean more activities and possibly more deliveries. Commission members felt that solving the delivery vehicle parking problem is necessary. Mr. Ginsberg said that he is willing to coordinate with the DOT to support a suitable alternative. Commission members decided to continue the public hearing regarding this item on October 18, 2016 at 8 P.M. in the Town Hall.

Chairman Cameron said that in order to avoid any perception of a conflict of interest on the next item, she would not participate in any of the discussion on the matter. She left the room and Mr. Olvany served as acting-Chairman. Mr. Olvany read the following agenda item:

Subdivision Application #616, Land Filling & Regrading Application #386, Suzanne Okie, 0 & 10 Raider's Lane. Request for subdivision approval; and associated regrading for the proposed single-family residences and accessory uses; and to perform related site development activities. The subject properties are located on the east side of Raider's Lane, approximately 300 feet south of its intersection with Tory Hole Road, and are shown on Assessor's Map #70 as Lots #17, #18, and #19, in the R-1 Zone.

Mr. Ginsberg indicated that this is a three step process to create an additional building lot. The first aspect is to adjust the dividing lines that separate the three existing building lots. The second step would be to obtain Planning & Zoning Commission approval to divide the enlarged Lot #18 into two building lots. The third step in the process would then be to file the Lot Line Revision Map and to file the Subdivision Map on the Land Records and eventually to build the new driveway to service the vacant lots. By doing the subdivision in this process, they applicant will avoid the requirement for open space because the revised Lot #18, which is proposed to be subdivided will not exceed three time the minimum lot size required in the zone.

Attorney James Murphy represented the property owner and said they have obtained approval from the Environmental Protection Commission (EPC) for the proposed work adjacent to the inland wetlands on the property. He said they have also obtained approval from the Health Department regarding the installation of the septic systems and the revisions of the lot line because the revisions of the lot lines will not adversely impact the previously approved septic systems. He said that he has also obtained approval from Mr. Ginsberg to revise the lot lines without creating any new or additional building lots. He said that the three existing lots are shown on the 1956 subdivision and in 1986 there were some minor lot line adjustments that were approved. He said in 2016 a map submitted to Mr. Ginsberg for review to reduce the sizes of the lots #17 and #19 and to add that additional land to make lot #18 larger. That approved map has not yet been filed on the Land Records.

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Attorney Murphy said that they are seeking approval from the Planning & Zoning Commission to divide the enlarged Lot #18 into two building lots. He said that the EPC permit application covered the work on all of the properties but the Planning & Zoning Commission subdivision application is only for Lot #18. Mr. Ginsberg said that the proposed regrading and conservation easements are on the two lots proposed to be created from the division of Lot #18 and some on Lot #17. Attorney Murphy said that the conservation easements are voluntary measures by the applicant to protect the areas around the wetlands and to satisfy the EPC that the wetlands will not be impacted. He said that the EPC unanimously approved the project. The conservation easements will also help to satisfy the neighboring property owner to prevent development activity or change closest to them. Attorney Murphy said they are asking the Planning & Zoning Commission to waive the normal requirement for stormwater detention because the subject property is so close to Long Island Sound. The proposed storm drainage system will address stormwater quality before it gets into the wetland. He said that the waiver request for the stormwater detention is supported by the Director of Planning, Mr. Ginsberg.

Attorney Murphy said significant trees on the properties will be protected and preserved and that the proposed sight lines from the proposed driveway meet the Department of Transportation (DOT) standards for safety. Attorney Murphy said that the normal Planning & Zoning Commission Land Filling and Regrading Special Permit is valid for only one year, but since the applicant has no real intention of developing properties at this point, he is asking the Commission for ten years to implement the regrading plan. The regrading plan is closely connected to the extensive regrading for the driveway.

Matt Popp of Environmental Land Solutions said that as part of the plan the wetlands on the sites are being protected. A Connecticut Department of Energy & Environmental Protection (DEEP) map indicates that there could be species of special concern in the general area but they have not found any such species on the site. He said that the submitted plans highlight the trees to remain. Many trees will need to be removed to facilitate the driveway construction and the installation of the septic systems and the construction of the houses.

Chris Dubuque, Professional Engineer from Tighe & Bond, said that the septic system design has been thoroughly reviewed. One of the proposed houses will need a pumped septic system. He said that David Knauf of the Darien Health Department has approved the proposed septic systems. Mr. Dubuque said that the regrading involves cutting into the hillside for the creation of a new safe driveway that will meet the Town specifications. At one point the grade for the driveway must be cut approximately 11 feet. Some of the material from the cut area will be used to fill other portions of the driveway. Most of the rock excavated for the driveway will be removed from the site. Select fill will need to be trucked into the sites for the proposed septic system. In the discussion that followed, the estimate was that based on the large trucks hauling 20 cubic yards of material, the amount of cut would require approximately 100 loaded trucks to be removed from the site and approximately 400 loaded trucks to be brought into the site. Commission members noted that the roads leading to and from the site are narrow, private streets with numerous curves. Mr. Voigt said that the road might need to be re-paved or repaired after so much heavy truck traffic utilizes the street. He asked why so much filling and regrading must be performed. Mr. Dubuque said that the septic system designs and the drainage system designs are generally underlying rock area and this necessitates using quite a bit of fill to create area of adequate drainage.

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Mr. Cunningham said that the proposed driveway plan is very specific and the driveway will serve all three of the vacant lots. He asked if the site plans were specific as well and if the house sizes and designs would be locked in place by the approval. Attorney Murphy said that the driveway and septic system and stormwater drainage plans would be specific for each of the three lots but the house designs are just conceptual to show the feasibility that a house could be built on each property in compliance with the Regulations. Mr. Sini reviewed the standards and criteria in Section 854f and g of the Zoning Regulations regarding excavation, filling and regrading. Mr. Olvany said that the required filling and regrading that is dependent on the septic system and drainage system is one thing but the extensive regrading of the remaining portion of the parcels is a different concern. He said that the septic and drainage systems and house construction of two lots would be less than regrading necessary for three lots, which is proposed. Mr. Dubuque said that some of the regrading for the proposed houses and patios is in the transition area between the drainage or septic system and therefore, is necessary for those systems. Mr. Olvany asked if the house envelope could be locked in place by the approval. Mr. Ginsberg that it could be because the Health approval, EPC approval and Planning & Zoning Commission approvals could indicate that this is the maximum extent of filling and regrading permitted on each of the proposed parcels.

Mr. Dubuque reviewed the stormwater collection system and the rain garden to be installed on Lot #17. He also noted that stormwater runoff in the driveway will be collected into catch basins near the bottom of the driveway and then into a storage system. In an unusually heavy rain, those storage systems would overflow into Raider's Lane. He said that on Lot #2A, the infiltration of stormwater at the rear of yard would be behind the house and the infiltration of the driveway stormwater would be in the front yard. On Lot #2B, the rain garden would be in the front of the house and it would overflow into the wetlands. At the rear of the house on Lot #2B the sheet flow would eventually allow water to get into the wetlands. He said that the sediment and erosion control plan is very detailed and includes a narrative and illustrative plans.

In response to questions, Mr. Popp said that on Lot #2A and Lot #2B, approximately 52 trees would remain and 36 trees would need to be removed. On the entire site, approximately 71 trees would remain and 71 would be removed. Many of these additional trees to be removed are to make way for the proposed driveway.

Attorney Murphy said that the applicants have no plans to develop the property or sell the properties at this time but they do plan to obtain permission from the Commission and file the maps in the Land Records to lock into place the approval. He said that the construction sequence planning does coordinate with the EPC and the Zoning staff's. He did ask the Commission to grant the approval for one year and then grant nine extensions of twelve months each. He also asked the Commission to grant the waiver of stormwater detention for Lot #2B.

There were no comments from the public regarding the application.

Todd Ritchie, Professional Engineer, explained that he was hired to conduct a peer review on behalf of the Town. He said that the applicant's engineer did a suitable job on this difficult site to deal with the steep slopes and the wetlands and other concerns. He said that the amount of filling and regrading, unless there were significantly sloped yards, does seem necessary to reasonably develop a four bedroom home on each of the parcels. He said he did not see any practical way to reduce the amount of regrading. He noted that the Fire Marshal had submitted a comment noting

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that access for emergency equipment will be difficult. He said space would be limited for moving trucks and other large vehicles to get into and out of each site. He suggested they might need to move the proposed fire hydrant in order to get better access to the hydrant and to the proposed buildings.

There being no other comments, the following motion was made: That the Planning & Zoning Commission close the public hearing on this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Cunningham 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. Sini, seconded by Mr. Voigt and unanimously approved. The meeting was adjourned at 10:56 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

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