

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016**

Place: Room 206

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, Olvany, Sini, Jr., Voigt, Rand (sworn in at 8:15 PM)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Cameron called the meeting to order at 8 P.M. A motion was made to go into Executive Session to conduct interviews for replacement of Commission Member Richard DiDonna. The motion was made by Mr. Voigt, seconded by Cunningham and unanimously approved.

EXECUTIVE SESSION

Interviews of potential replacements for former Commission member Richard DiDonna.

Five candidates were individually interviewed. No motions were made and no actions were taken until approximately 9:00 P.M. in order to come out of Executive Session. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron called the General Meeting to order at 9:00 P.M. and read the following agenda item:

GENERAL MEETING

Possible appointment/vote of member to replace Richard DiDonna.

A motion was made to have James Rand of Ox Ridge Lane serve as a replacement Commission member for Richard DiDonna. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved. Donna Rajczewski, Town Clerk, swore Mr. Rand in and he took his place with the rest of the Commission. He will serve as a replacement until the November 2017 Election.

Chairman Cameron the read the following agenda item:

Update on proposed blight ordinance with Frank Kemp of TGS&A Committee of the RTM.

Frank Kemp of the RTM explained that the blight ordinance has been worked on for some time. They have gathered considerable information about blight ordinances in other communities. The proposed ordinance in Darien would create a 5 person Blight Review Board and would include a member from each of the following, existing groups, Planning & Zoning Commission, Human Services, Commission on Aging, the Selectman and the RTM. There would be a blight prevention officer who is authorized to inspect properties and issue blight notices and correction orders. Mr. Kemp said that the proposed ordinance has been reviewed by many groups within the community

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 2 OF 26

and is proposed to be an ordinance, and not a change to the Town Charter. A public hearing was conducted in September. The RTM will discuss this matter at its October meeting and will accept comments from the public at that time. Hopefully, they will vote on the ordinance at their October meeting. Commission members thanked Mr. Kemp for his work in this matter and for his explanation to the Commission.

Chairman Cameron opened the public hearing portion of the meeting at 9:15 P.M. and 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 THEN CONTINUED TO 9/27 AND 10/4/2016. **PUBLIC HEARING TO BE IMMEDIATELY CONTINUED TO 10/25/2016.***

The public hearing regarding this matter will be continued on October 25, 2016.

Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Business Site Plan Application #86-E/Special Permit, Robert Bantle, 365-367 Boston Post Road. Proposing to combine 365 and 367 Boston Post Road into one lot; and to construct an accessory single-story 40' x 60' storage building and driveway with associated stormwater management on the rear portion of the property; and to perform related site development activities. The subject properties are located on the north side of Boston Post Road, approximately 250 feet west of its intersection with Birch Road, and is shown on Assessor's Map #14 as Lots #49 and #50, in the DB-2 Zone. *PUBLIC HEARING WAS OPENED ON 9/22/2016 AND WAS IMMEDIATELY CONTINUED TO 10/4/2016.*

Attorney Wilder Gleason represented the applicant and submitted a colored map highlighting existing and proposed conditions. He said that Mr. Bantle had previously converted the front building at 365 Boston Post Road from the rundown rental center to the attractive Tri-Fit Golf facility. Mr. Bantle has since purchased the rear lot at 367 Boston Post Road and demolished the old house that was on that rear lot. He now proposes to merge the two parcels and construct a 40'x60' one-story storage building. The storage building would have three large bay doors. The entire building and rear lot are located in the DB-2 (Commercial) Zone. Mrs. Cameron asked about the large oak tree to the left of the existing driveway and proposed building. Attorney Gleason said that measures will be taken to protect and preserve the tree during the construction process. He noted that there are commercial uses on both sides of this rear parcel and that there is a residential lot (which fronts on Birch Road) to the rear of this commercial property. He submitted a letter of support from the residential neighbor. That neighbor said that they would prefer the use of a green building instead of the original red building.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 3 OF 26

The proposed building design and color had been reviewed by the Architectural Review Board. They submitted an unfavorable report, but noted that if the Planning & Zoning Commission does approve the construction of the storage building, they recommend that the walls and doors be green and that the roof be a gray color. Attorney Gleason said that they will have green walls, but he is not sure if the roof can be obtained in gray or if it can be painted gray.

Attorney Gleason reviewed the Grading and Drainage Plan. Stormwater runoff from the proposed building and driveway will be managed so that it does not affect any of the neighbors or the street. He said that the proposed storage building will have sewer and water service available, but there will be no living quarters. In response to questions, he said that the steel structure would be constructed on a slab and would not have a basement or crawl space. The building would be used for the parking of vehicles owned by Mr. Bantle and for storage associated with his business.

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

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

Continuation of Public Hearing regarding Land Filling & Regrading Application #338-A, Todd Marcy, 5 Top O’Hill Road. Proposing to fill and regrade and construct an associated retaining wall, and to perform related site development activities. The subject property is located on the west side of Top O’ Hill Road approximately 300 feet north of its intersection with Christie Hill Road, and is shown on Assessor’s Map #29 as Lot #84 in the R-1 Zone. *PUBLIC HEARING WAS OPENED ON 9/22/2016 AND WAS IMMEDIATELY CONTINUED TO 10/4/2016.*

John Zmistowski of Freddy’s Landscaping explained that his client purchased the property not long ago and was not involved in the previous controversy regarding drainage and regrading that was performed by the contractor. Mrs. Cameron asked if the previous permit had been implemented and Mr. Ginsberg said that the contractor did that. Mr. Zmistowski submitted revised plans that address some of the questions and concerns of the neighbors and adds more details. He said that a new retaining wall approximately three feet tall will be built of attractive stone and then approximately 250 cubic yards of fill and topsoil will be brought in to create some additional flat, usable backyard play space. He said that the area between the proposed retaining wall and the property lines will remain at the current grades and will not be changed by the proposed regrading.

Mr. Zmistowski said the addition of about 3,300 sq.ft. of new turf area will act as an absorbent for storm water. He said that the weep holes in the proposed retaining wall are there so that any water behind the wall will not freeze and damage the structure of the wall. He said that the outflow from the weep holes would be just a trickle, but he has included energy dissipators at the outlet areas. He said that the wall could be constructed to be 6 inches above the proposed flat play area so that the lip of the wall would contain any abnormally large amounts of rainfall and allow that rainfall to be absorbed by the new flat area. Mr. Zmistowski said that a swale has been included in the plan above the tree line to make sure that runoff water does not go unimpeded toward the neighbors. Mr. Olvany said that he recalls that the drainage from the patio areas needed to be piped away from the neighbors. Mr. Zmistowski said that they are not touching the drainage and the patio area.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 4 OF 26

Mr. Romanowski of 11 Homestead Road said that subsequent to the builder doing the landscaping and regrading that had been approved by the Planning & Zoning Commission, the current owner has significantly regraded the land area adjacent to the common property line. He said that the stone wall along the property line now acts as a retaining wall because of the relocation of the evergreen trees and the regrading that took place at that time. He said that miscellaneous material and debris and the planting of the trees has resulted in an area of regrading that is several feet deep near the wall and property line. He submitted two photographs of the current conditions. He said that there are a number of concerns that he and the other neighbors have. These include: the property line has been drawn incorrectly on the landscaper's plan; the wall would be about 7 to 10 ft. tall at its peak rather than just 3 ft.; the drainage gallery and level spreaders that were previously installed might be impacted or compromised due to the proposed regrading; the drainage was carefully engineered before and must be re-engineered rather than the landscaper trying to engineer the stormwater; and some regrading work has already been done by the current owner without permits or approvals.

Kevin Fahey of 15 Homestead Road said that the grades have already been changed to be different from what had been previously approved by the Commission and implemented by the builder/contractor. He submitted three 8½ x 11 photographs showing the revised grades along the property line. He said that some of this work was done in the springtime and the replanting and regrading stopped short shortly after he (Mr. Fahey) contacted Jeremy Ginsberg of the Planning & Zoning office. He said that in general the evergreen trees that had been planted per the previous approval were moved about 20 ft. down slope.

Bill Kearney of 9 Homestead Road confirmed that the new owner had the trees located downhill last spring. He said the work stopped in the springtime after he contacted Mr. Ginsberg in the Planning & Zoning office. He said that the new owners also removed trees from an area along Top 'O Hill Road.

Mr. Voigt said that the Commission is very concerned about the changes that have already been implemented. He said it would be necessary to compare the current conditions to the approved plans in the previous file. Mr. Ginsberg said that the as-built plan that had been submitted as a result of the previous permit is dated last year. He suggested that the Planning & Zoning Commission continue the public hearing and, in the meantime, he and the contractor will try to figure out the status of the property and fix any problems that exist. The Commission members decided to continue the public hearing regarding this matter on October 25, 2016 at 8:00 P.M. in Room 206 of the Town Hall.

Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Business Site Plan Application #64-A/Special Permit, Ring's End, Inc., 159 West Avenue. Proposing to construct an addition to the front of the existing building and perform related site development activities. The subject property is on the south side of West Avenue, approximately 200 feet west of its intersection with Old Parish Road, and is shown on Assessor's Map #40 as Lots #1 & #2 and is located in the SB Zone. *PUBLIC HEARING WAS OPENED ON 9/22/2016 AND WAS IMMEDIATELY CONTINUED TO 10/4/2016.*

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 5 OF 26

John Doherty represented Ring's End, Inc. Mr. Ginsberg explained that Ring's End has purchased the adjacent property (to the northeast of the lumber yard) which was formerly occupied by Darien Auto Body. They propose to convert the existing automobile repair site into a vehicle service building for their own use. Mr. Doherty said that the house on the front portion of the property has already been demolished. They plan to add onto the front of the automobile service building so that they can install taller entry doors. He said that the plan to construct the addition has been reviewed by the Architectural Review Board and they support the proposed changes. He said that the site will no longer be open to the general public because it would be used solely for Ring's End vehicles. Thus, they do not need any signage along West Avenue. Mr. Doherty said that there is a lower floor which is accessible from the back of the building. That lower floor will be used only for storage. He said that the building is currently served by an oil heating system that might be changed to a propane heating system. In response to questions, he said that there will be no gasoline or diesel storage facilities or dispensing of fuel at the site.

Commission members reviewed the plans. There were no comments from the public regarding the application. The following motion was made: That the 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. Olvany and unanimously approved.

Chairman Cameron then read the following agenda item:

GENERAL MEETING

Discussions, deliberations ONLY regarding the following two items (No decisions to be made): 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. *PUBLIC HEARING CLOSED: 9/27/2016.*

Mrs. Cameron said that there has been a lot of confusion regarding this application because of the various designs and changes. Mr. Sini said that the final design seems acceptable with the understanding that the existing drainage culvert will be cleaned out and that the driveway will remain the same size and location. There was a discussion regarding whether blasting and/or chipping would be appropriate to remove the existing rock. Commission members felt that some limiting time for chipping and/or hoe-ramming would be necessary. They also felt it would be appropriate to require a drainage maintenance plan to be submitted. Mr. Ginsberg said that he will draft something for consideration at a future meeting.

Chairman Cameron then 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. *PUBLIC HEARING CLOSED: 9/27/2016.*

Mrs. Cameron departed the meeting room because she did not want to participate in any discussions regarding this matter. Mr. Olvany chaired this portion of the meeting.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 6 OF 26

Mr. Olvany said that the result would be one additional building lot. The existing house and driveway would remain unchanged. The three vacant parcels would be served by one proposed driveway. In the discussion that followed, Commission members noted that the implementation of the regrading for the common driveway could be valid for up to 5 years, but they were not comfortable with having the regrading for the individual lots being for 10 years as requested by the applicant. They felt that a three-year approval would be the maximum that they felt comfortable with. The extent and amount of regrading for the lots seemed to be more than would reasonably be expected and presents a safety issue due to the extensive traffic. They felt that the easements and buildable area portions of the lot need to be locked in place and traffic presents a safety issue on surrounding streets in the area. Mr. Ginsberg said that he would work on a draft resolution for consideration at a future meeting.

Mrs. Cameron returned to the meeting and read the following agenda item:

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

Commission members reviewed the draft resolution for 17 Brush Island Road and noted that the applicant had revised the plans to reflect the comments and concerns regarding work within the critical 100 foot area adjacent to Holly Pond. Several minor typos and clarifications were discussed and agreed upon. The following motion was made: That the Commission adopt the following Resolution to approved the project subject to the conditions and stipulations as noted. A motion was made by Mr. Sini and seconded by Mr. Olvany. Messrs. Sini, Olvany and Cunningham and Mrs. Cameron voted in favor of the motion. Mr. Voigt and Mr. Rand abstained. The motion was passed by a vote of 4 to 0 to 2.

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2016

Application Number: Coastal Site Plan Review #312
Flood Damage Prevention Application #358
Land Filling & Regrading Application #389

Street Address: 17 Brush Island Road
Assessor's Map #56 Lot #19

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 7 OF 26

Name and Address of Applicant & Property Owner: Brush Island Road 17, LLC
111 Main Street
Westport, CT 06880

Name and Address of Applicant's Representative: Thomas Nelson
McChord Engineering Associates
1 Grumman Hill Road
Wilton, CT 06897

Activity Being Applied For: 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.

Property Location: The subject property is located on the north side of Brush Island Road, approximately 1,200 feet west of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: August 9, 2016 continued to September 13, 2016

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

Publication of Hearing Notices
Dates: July 29 & August 5, 2016

Newspaper: Darien News

Date of Action: October 4, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 14, 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 406, 810, 820, 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:

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 8 OF 26

1. The proposal is 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 proposed five-bedroom residence will be served by public water and a new on-site septic system. The site contains 1.23 acres and is adjacent to Holly Pond.
2. The Environmental Protection Commission (EPC) approved this application as part of EPC #18-2016 on July 6, 2016. That approval is hereby incorporated by reference. The revised September plans, which pull the house farther away from Holly Pond reduced the amount of activity in the EPC-regulated area, and thus, do not need further review or action by the EPC.
3. It is acknowledged that the submitted Buffer Planting Plan and Site Development Plan show a possible pier/dock being located in roughly the center of the northerly property line. The applicant will need to obtain permits from the Connecticut Department of Energy & Environmental Protection (DEEP), the Planning & Zoning Commission and possibly the Darien Environmental Protection Commission before they can install that pier/dock.
4. At the first public hearing on this matter on August 9, the Commission requested that the applicant revise the plans to better respect the Regulations and the Coastal Area Management Program, specifically the critical 100 foot area adjacent to Holly Pond. At the September public hearing, revised plans were reviewed with the Commission.
5. At the public hearing, the Commission reviewed the submitted Buffer Planting Plan. It was 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 72" Copper Beech tree to be saved on the site.

STORMWATER MANAGEMENT AND PROPOSED REGRADING

6. At the public hearing, Tom Nelson, Professional Engineer, reviewed the site plan and development aspects of the project. He said that stormwater runoff from all the impervious surfaces now drains directly into Holly Pond then Long Island Sound and there are not currently any water quality features on the site. He said that the proposed drainage system would not be retaining any rain water, and includes a new proposed rain garden near Holly Pond. 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. Currently, in that area of the rain garden, there is lawn that extends down to the edge of Holly Pond.
7. The revised site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

PROPOSED WORK WITHIN CAM AREA

8. This application and original site plan were referred to the State of CT DEEP. They responded in an e-mail dated July 11, 2016 that they have reviewed the proposal, and find no inconsistencies with the CT Coastal Management Act. They also go on to note: "However, we would suggest that the proposal would be more consistent if all proposed structures were set back as far as possible from Holly Pond. For example, components of the septic system are currently proposed within the AE14 FEMA designated flood plain. Secondly we would suggest that the Commission consider the preservation of trees and the

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 9 OF 26

existing view shed of the property from the water while reviewing any proposed landscape modifications.”

9. The original site plan was not acceptable, but the Commission finds that the proposed development as shown on the revised site plan, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
11. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

PROPOSED WORK WITHIN THE FLOOD ZONE

12. A small portion of the proposed house will be on ground which is now at or below the expected flood elevation of 14 feet above North American Vertical Datum 1988 (NAVD 88). The area around that portion of the house will be filled so that it will be above elevation 14. The proposed residence will have a first floor of elevation 18.5. This is above the flood zone on the subject property, which is elevation 14.0. The submitted plans show that the proposed residence and associated pool are outside of the flood zone. The only work proposed for the flood zone is some regrading, a new proposed septic system, and the installation of a pool fence.
13. The proposed work will not result in an increase of flood heights and the proposal meets or exceeds Section 825 of the Darien Zoning Regulations.
14. The Commission believes that the proposed activities as shown on the revised site development plan, to be implemented with the conditions 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 #312, Flood Damage Prevention Application #358 and Land Filling & Regrading Application #389 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey depicting Proposed Conditions 17 Brush Island Road prepared for Brush Island Road 17 LLC, by William W. Seymour & Associates, dated June 16, 2016 and last revised September 9, 2016.
 - Plan Prepared for Brush Island Road, 17, LLC, Septic System/Site Development Plan, by McChord Engineering Associates, last revised 9-13-2016, Drawing No. SE1.
 - Plan Prepared for Brush Island Road, 17, LLC, Construction Notes and Details, by McChord Engineering Associates, last revised 9-13-2016, Drawing No. SE2.
 - Buffer Planting Plan, by Environmental Land Solutions, scale 1”=20’, dated June 17, 2016 and last revised 9-13-16, Drawing No. L-1.
- B. The Zoning and Building Permit for the foundation only for the proposed residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey illustrating the location and

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 10 OF 26

elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or foundation are within the flood hazard zone (elevation 14). Only then can the Zoning and Building Permits be obtained for the house above the foundation level. The applicant is responsible for obtaining a Letter of Map Revision (LOMR) or similar approval from FEMA. The applicant shall provide a copy of this approval to the Commission for the file prior to the use of, or request for the issuance of a Certificate of Occupancy for the proposed residence.

- 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. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- E. Because this application is located within the bottom 1/3 of the watershed, and is directly adjacent to Long Island Sound, the Commission hereby waives the requirement to address water quantity. Only water quality is addressed.
- F. The applicant's engineer prepared a Stormwater Facilities Maintenance Plan for 17 Brush Island Road, for the roof leaders and the rain garden. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the 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. Prior to the request for the Certificate of Occupancy for the construction work, 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.
- H. Once the project is complete, and prior to July 12, 2017, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans. This as-built survey shall reflect the new location of any air conditioning units, generator, and above ground propane tanks, which are proposed to be located to comply with zoning setbacks and flood regulations as part of this application.
- 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. This includes the requirement for a Demolition Permit; Zoning Permit and Building Permits for the

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 11 OF 26

foundation for the proposed residence; followed by subsequent Zoning and Building Permits for work above the foundation. Separate Zoning and Building Permits will be required for the proposed pool.

- 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 815, 829f, and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 4, 2017). This may be extended as per Sections 815, 829f, and 858.

All provisions and details of the plan, as approved herein, 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 a Zoning and Building Permit for the foundation for the proposed new replacement residence.

Chairman Cameron then 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.

After a brief discussion about the draft resolution, the following motion was made: That the 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 passed by a vote of 4 to 0 to 2. Messrs. Olvany, Sini and Cunningham and Mrs. Cameron voted in favor of the motion. Mr. Voigt and Mr. Rand abstained.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2016**

Application Number: Coastal Site Plan Review #313
Flood Damage Prevention Application #359
Land Filling & Regrading Application #390

Street Address: 21 Brush Island Road
Assessor's Map #56 Lot #18

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 12 OF 26

Name and Address of Applicant & Property Owner: Brush Island Road 21, LLC
111 Main Street
Westport, CT 06880

Name and Address of Applicant's Representative: Thomas Nelson
McChord Engineering Associates
1 Grumman Hill Road
Wilton, CT 06897

Activity Being Applied For: 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.

Property Location: The subject property is located on the north side of Brush Island Road, approximately 1,200 feet west of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: August 9, 2016 continued to September 13, 2016

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

Publication of Hearing Notices
Dates: July 29 & August 5, 2016 Newspaper: Darien News

Date of Action: October 4, 2016 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
October 14, 2016

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

- the proposed use and activities must comply with all provisions of Sections 406, 810, 820, 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:

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 13 OF 26

1. The proposal is to raze the existing house; 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 proposed five-bedroom residence will be served by public water and a new on-site septic system. The site contains 1.55+/- acres and is adjacent to Holly Pond.
2. The Environmental Protection Commission (EPC) approved this application as part of EPC #19-2016 on July 6, 2016. That approval is hereby incorporated by reference. The revised September plans, which pull the house further away from Holly Pond reduced the amount of activity in the EPC-regulated area, and thus, do not need further review or action by the EPC.
3. It is acknowledged that the submitted Buffer Planting Plan and Site Development Plan show a possible pier/dock being located in roughly the center of the northerly property line. The applicant will need to obtain permits from the Connecticut Department of Energy & Environmental Protection (DEEP), the Planning and Zoning Commission and possibly the Darien Environmental Protection Commission before they can install that pier/dock.
4. At the first public hearing on this matter on August 9, the Commission requested that the applicant revise the plans to better respect the Regulations and the Coastal Area Management Program, specifically the critical 100 foot area adjacent to Holly Pond. At the September public hearing, revised plans were reviewed with the Commission. The goal of these plans was to pull the proposed residence farther from Holly Pond and preserve the existing 96 inch beech tree.
5. At the public hearing, the Commission reviewed the submitted Buffer Planting Plan. It was noted that existing vegetation along the northerly boundary line and adjacent to Holly Pond will be preserved, that plantings will be added along much of Holly Pond and a new proposed rain garden will be installed and along the northeasterly property line. Tree protection fencing has been proposed for the preservation of the 96" beech tree to be saved on the site.

STORMWATER MANAGEMENT AND PROPOSED REGRADING

6. At the public hearing, Tom Nelson, Professional Engineer, reviewed the site plan and development aspects of the project. He said that stormwater runoff from all the impervious surfaces now drains directly into Holly Pond and then Long Island Sound and there are not currently any water quality features on the site. He said that the proposed drainage system would not be retaining any rain water, and includes a new proposed rain garden near Holly Pond. 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. Currently, in that area of the rain garden, there is lawn that extends down to the edge of Holly Pond.
7. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

PROPOSED WORK WITHIN CAM AREA

8. This application and original site plan were referred to the State of CT DEEP. They responded in an e-mail dated July 11, 2016 that they have reviewed the proposal, and find no inconsistencies with the CT Coastal Management Act. They also go on to note: "However, we would suggest that the proposal would be more consistent if all proposed structures were set back as far as possible from Holly Pond. For example, components of the septic system are currently proposed within the AE14 FEMA designated flood plain. Secondly we would suggest that the Commission consider the preservation of trees and the

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 14 OF 26

existing view shed of the property from the water while reviewing any proposed landscape modifications.”

9. The original site plan was not acceptable, but the Commission finds that the revised proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The proposed activity as show on the revised site development plan is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
11. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

PROPOSED WORK WITHIN THE FLOOD ZONE

12. A small portion of the proposed house will be on ground which is now at or below the expected flood elevation of 14 feet above North American Vertical Datum 1988 (NAVD 88). The area around that portion of the house will be filled so that it will be above elevation 14. The proposed residence will have a first floor of elevation 18.0. This is above the flood zone on the subject property, which is elevation 14.0. The submitted plans show that the proposed residence and associated pool are entirely outside of the flood zone. The only work proposed to occur in the flood zone is some regrading, a new proposed septic system, and the installation of a pool fence.
13. The proposed work will not result in an increase of flood heights and the proposal meets or exceeds Section 825 of the Darien Zoning Regulations.
14. The Commission believes that the proposed activities as shown on the revised site development plan, to be implemented with the conditions 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 #313, Flood Damage Prevention Application #359 and Land Filling & Regrading Application #390 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- L. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey depicting Proposed Conditions 21 Brush Island Road prepared for Brush Island Road 21 LLC, by William W. Seymour & Associates, dated June 16, 2016 and last revised September 9, 2016.
 - Plan Prepared for Brush Island Road, 21, LLC, Septic System/Site Development Plan, by McChord Engineering Associates, dated May 18, 2016, last revised 9-13-2016, Drawing No. SE1.
 - Plan Prepared for Brush Island Road, 21, LLC, Construction Notes and Details, by McChord Engineering Associates, last revised 9-13-2016, Drawing No. SE2.
 - Buffer Planting Plan, by Environmental Land Solutions, last revised 9-13-16, Drawing No. L-1.(this plan shows the plantings along the base of the proposed pool retaining wall as well as the tree protection around the beech tree).

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 15 OF 26

- Brush Island 21, LLC, 21 Brush Island Road, by Cole Harris Associates, plans and elevations, last dated 9-9-16, Drawing No. A-101 through A-204.
- M. The Zoning and Building Permit for the foundation only for the proposed residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey illustrating the location and elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or foundation are within the flood hazard zone. Only then can the Zoning and Building Permits be obtained for the house above the foundation level. The applicant is responsible for obtaining a Letter of Map Revision (LOMR) or similar approval from FEMA. The applicant shall provide a copy of this approval to the Commission for the file prior to the use of, or request for the issuance of a Certificate of Occupancy for the proposed residence.
- N. 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.
- O. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- P. Because this application is located within the bottom 1/3 of the watershed, and is directly adjacent to Long Island Sound, the Commission hereby waives the requirement to address water quantity. Only water quality is addressed.
- Q. The applicant's engineer prepared a Stormwater Facilities Maintenance Plan for 21 Brush Island Road, for the roof leaders and the rain garden. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the foundation for the proposed residence.
- R. 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. Prior to the request for the Certificate of Occupancy for the construction work, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system (roof leaders and rain garden) 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.
- S. Once the project is complete, and prior to October 4, 2017, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans. This as-built survey shall reflect the new location of any air conditioning

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 16 OF 26

units, generator, and above ground propane tanks, which are proposed to be located to comply with zoning setbacks and flood regulations as part of this application.

- T. 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 the requirement for a Demolition Permit; Zoning Permit and Building Permits for the foundation for the proposed residence; followed by subsequent Zoning and Building Permits for work above the foundation. Separate Zoning and Building Permits will be required for the proposed pool.
- U. 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.
- V. This permit shall be subject to the provisions of Sections 815, 829f, and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 4, 2017). This may be extended as per Sections 815, 829f, and 858.

All provisions and details of the plan, as approved herein, 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 a Zoning and Building Permit for the foundation for the proposed new replacement residence.

Chairman Cameron then 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 construction a single-family residence and associated filling and regrading and to perform related site development activities within a regulated area.

Mr. Voigt said that he wants to make sure that the August 31st plan is the most recent plan that incorporates the revised location of the retaining walls and saving the large trees in the northeast portion of the site.

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. Cunningham and passed by a vote of 4 to 1 to 1. Messrs. Sini, Cunningham, Olvany and Voigt voted in favor of the motion. Mrs. Cameron voted against the motion and Mr. Rand abstained. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2016**

Application Number: Flood Damage Prevention Application #189-B
Land Filling & Regrading Application #372-A

Street Address: 2 Silver Lakes Drive
Assessor's Map #37 Lot #15

Name and Address of
Property Owner: Michael Nikolas
2 Silver Lakes Drive
Darien, CT 06820

Name and Address of
Applicant's Representative Steve McAlister
McChord Engineering
1 Grumman Hill Road
Wilton, CT 06897

Activity Being Applied For: Proposal to construct a single-family residence and associated filling and regrading and to perform related site development activities within a regulated flood hazard area.

Property Location: The subject property is located on the northeast corner formed by the intersection of Silver Lakes Drive and Tokeneke Road.

Zone: R-1/2

Date of Public Hearing: August 9, 2016 continued to September 13, 2016

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

Publication of Hearing Notices

Dates: July 29 & August 5, 2016

Newspaper: Darien News

Date of Action: October 4, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 14, 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 406, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 18 OF 26

- 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 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 partially within the flood zone. The calculated flood level or BFE (Base Flood Elevation) is 41.7 feet above North American Vertical Datum 1988 (NAVD 88). It is 0.5342 acres and is served by public water and sewer (to be connected from Silver Lakes Drive). This lot was created via Subdivision Application #615, approved by the Planning and Zoning Commission on April 5, 2016. The proposed dwelling would have five bedrooms and contain approximately 4,500 square feet of living space.
2. At the August 9 public hearing, the Planning and Zoning Commission and some neighbors relayed their concerns regarding the proposed retaining walls and their potential impact on trees near the property line, grading, and potential drainage issues.
3. Revised plans were submitted in September, both prior to and at the September 13 public hearing. These plans show the closest retaining wall at least ten feet from the eastern property line of the subject property. It also shows a potential curve in the wall in order to attempt to save an existing 36 inch oak tree in the southeast corner of the property. The pool which was shown on the previous plans had been eliminated on this latest version of the plans.

PROPOSED WORK WITHIN THE FLOOD ZONE

4. The Base Flood Elevation (BFE) in the area is 41.7 feet above North American Vertical Datum 1988 (NAVD 88). Regrading is proposed and the house will be elevated so that its first floor will be at elevation 43.8, which is more than the required one foot above expected flood level. The garage will be at elevation 42.0. There will be a crawl space, but no basement.
5. The proposed propane tank is not in the flood zone, but in the event that it is in the flood zone, it would be properly strapped down in order to meet the Flood Damage Prevention Regulations.
6. While the Commission acknowledges that construction of new residences in a flood zone is not ideal, in this case, the proposed house is replacing an existing residence which straddles the proposed lot line between 2 and 4 Silver Lakes Drive (that existing residence is non-conforming relative to the flood elevation). The proposed new residence and any associated HVAC units, mechanical equipment and generator(s), will comply with the flood regulations, which is an improvement over the existing situation.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 19 OF 26

7. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.

PROPOSED FILLING AND REGRADING

8. Part of this proposal includes the request to fill and regrade and construct associated retaining walls. Much of the proposed regrading involves cutting into the slope to create a flat backyard to the east of the proposed house. Plans were revised to address issues presented by Department staff, neighbors, and the Planning and Zoning Commission. The Commission notes that in order to minimize the height of the proposed retaining walls, two sets of walls are proposed, both of which will be four feet high or less. The proposed retaining wall will be at least 10 feet from the easterly boundary line of the site, thus the grades and drainage pattern on the neighbors' properties will be unaffected. A new wall will be constructed along part of the sidewalk along Tokeneke Road in order to contain the revised grades.
9. Section 853f of the Zoning Regulations reads "preservation of significant trees, vegetation and other natural resources" shall be provided. The applicant's engineer Mr. McAlister explained that the August 31, 2016 plan is the most current, and the oak tree in the southeast corner will remain. The walls on that plan have been designed and located in an attempt to avoid the two trees near the northwest corner of the adjacent property on Tokeneke Road.
10. While the Commission generally discourages fill in a flood zone, especially on such a small lot, in this specific case, the modifications of the plans provides the Commission with a comfort level that the engineering has been properly done, and that if properly implemented, the development will not impact adjacent properties.

STORMWATER MANAGEMENT

11. At the public hearings, Steve McAlister, Professional Engineer, reviewed the site plan and development aspects of the project. As shown on the submitted plans and as described at the public hearings, the applicant has included numerous Cultec units and yards drains to address stormwater management.
12. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #189-B and Land Filling & Regrading Application #372-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey of Property prepared for Michael Nikolas #2 Silver Lakes Drive, by Arcamone Land Surveyors, LLC, scale 1"=20', dated Aug 2, 2016 and last revised 9/1/2016
 - An 8-1/2" x 11" sketch showing the proposed change in the retaining walls to better preserve the existing oak tree in the southeast corner of the property.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 20 OF 26

- Site Development Plan 2 Silver Lakes Drive, by McChord Engineering Associates, Inc., scale 1"=20', dated May 26, 2016 and last revised 8-31-2016, Drawing No. SE-1.
 - 2 Silver Lakes Drive, Darien CT prepared for Michael Nikolas dated 08.05.2016, 2 pages (floor plans and elevations).
- B. The Site Development Plan shows a proposed four foot wide asphalt sidewalk to be constructed both on and adjacent to the subject property. That sidewalk is an essential and integral part of this approval, and must be properly installed prior to the issuance of a Certificate of Occupancy or use of the proposed residence. Because of the nature of the other 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 Site Development Plan 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 Stormwater Facilities Maintenance Plan was prepared by the applicant's engineer and submitted for the record. It makes reference to the required maintenance for the proposed yard drains and underground detention chambers. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed foundation for the new residence.
- E. The submitted plans show air conditioning units and an underground propane tank near the southeast corner of the proposed house. In those proposed locations, they are outside of the area of 1% chance of flood in any given year (formerly referred to as the 100 year flood zone line), which is at elevation 41.7. Thus, the air conditioning units, if placed in that location, would not need to be elevated on a platform, since at grade, they would be at or above the flood elevation.

REQUIRED VERIFICATIONS, PERMITS, AND AS-BUILTS

- F. Accompanying the Zoning and Building Permit applications for the foundation, and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the proposed house complies with the applicable flood damage prevention requirements. This will include specifying the brand and elevations of the flood vents and might also include the need for more flood vents for the main house and the garage. Once the foundation and house are completed, an as-built verification by the design professional is required.
- 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. Prior to the request for the Certificate of Occupancy for the new residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 21 OF 26

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.

- H. Once the project is complete, and prior to October 4, 2017, the applicant shall submit a final “as built” map and/or other evidence that all work has been properly completed in accordance with the approved plans. This as-built survey shall reflect the location of air conditioning unit(s), generator and above ground propane tanks (if any), all of which shall comply with the required minimum flood elevations as part of this application. If a propane tank is in the flood zone and buried, it must be properly strapped down. The as-built survey shall also show topography, with spot elevations and one foot elevation contour lines, which must match, or be lower than the approved plan. No additional filling or regrading or raising of the ground level is allowed.
- 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. A Demolition Permit from the Building Department will be required. Separate Zoning and Building Permits will be required for this project: one for the new foundation of the proposed residence, and one for the remainder of the proposed residence. A Sewer Connection Permit will be also required for the new residence.
- 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 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 4, 2017). This may be extended as per Sections 815 and 829f.

A Special Permit form and Notice of Drainage Maintenance Plan 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 foundation permit for the new replacement residence in order to finalize this approval.

Chairman Cameron then 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.

Several corrections and clarifications within the draft were discussed and agreed upon. It was noted that the exterior coloring of the proposed addition will match the existing color of the building. If at some point in the future the Architectural Review Board approves a change in the color of the overall building, then the addition will match that new coloring scheme.

The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 22 OF 26

Olvany, seconded by Mr. Sini and passed by a vote of 4 to 0 to 2. Messrs. Olvany, Sini and Cunningham and Mrs. Cameron voted in favor of the motion. Mr. Voigt and Mr. Rand abstained.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2016**

Application Number: Business Site Plan #110-G/Special Permit

Street Address: 1416 Boston Post Road
Assessor's Map #63 Lot #15, #16, and #17

Name and Address of Applicant(s) and
Property Owner(s): WAJS, LLC
1416 Boston Post Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates PC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the east side of Boston Post Road, approximately 300 feet north of its intersection with Hecker Avenue.

Zone: Service Business (SB)

Date of Public Hearing: July 26, 2016 immediately continued to September 13, 2016
Deliberations Held: September 27, 2016

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

Publication of Hearing Notices
Dates: July 15 & 23, 2016 Newspaper: Darien News

Date of Action: October 4, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of
Action: October 14, 2016 Newspaper: Darien News

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

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 23 OF 26

- the proposed use and activities must comply with all provisions of Sections 660, 1000 and 1020 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 plans, and the statements of the applicant's representatives 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, the Commission finds:

1. The proposal is 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 proposal is for a one-story 2,027 square foot addition which would comprise two additional service bays for H&L Chevrolet. The other site features to be updated include related lighting, landscaping, fencing, and paving.

PROPOSED BUILDING ADDITION

2. The applicants went before the Architectural Review Board (ARB) on September 13, 2016 regarding both the proposed addition and a proposal to paint the entire building (ARB application #21-2016). The ARB did recommend the proposed addition at the rear of the building in the same material and color scheme as the rest of the façade. However, the Architectural Review Board requested to see a second proposal for the façade color renovation. Thus, that portion of the request was not recommended by the ARB.
3. This proposed 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.

OTHER SITE FEATURE IMPROVEMENTS

4. 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 e-mail 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.
5. The location of the fencing as well as the condition of the landscaping and buffer plants adjacent to the residential neighbors, and the extent of paving and parking area for inventory vehicles has changed in the many years since the last site plan approval by the Commission. Some of those aspects do not comply with the past approval and the applicant seeks the Commission's approval to allow those items to remain as they are. At the September 13 public hearing, Mr. Ginsberg then read aloud from Section 944c of the Zoning Regulations relative to

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 24 OF 26

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 at this time and stressed the importance of residential buffers.

6. At the September 13 public hearing, the applicant's attorney, 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. Mr. Maslan said that their goal really is to build the addition in the short term. They withdrew the other elements of the application and will return to the Commission in the future once those elements are finalized and final plans prepared. The Commission agreed that in this specific instance, that addressing those items at a later date would be appropriate, however, this should be in the near term.
7. The location and size of the use, the nature and intensity of the proposed operations involved in the proposed addition, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
8. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
10. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
11. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #110-G /Special Permit is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Site changes shall be in conformance with the plans entitled:
 - Proposed Service Bay Addition 1416 Boston Post Road (Rte. 1) prepared for H&L Chevrolet Dealership, by Laferriere Associates, scale 1"=20', last revised July 7, 2016.
 - Addition and alterations to the Commercial Building, H&L Chevrolet, by PB Architects, last dated 12/9/2016, Dwg. No. A-0 through A-3.

Additional interior modifications may be required to comply with the Fire Safety and Building Codes. Such interior changes can be handled by the Building Official, Fire Marshal and Planning & Zoning Director without further action by the Commission. If further changes are

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 25 OF 26

needed to the exterior of the building or the site, then further action by the Commission will be necessary.

- B. The Commission is approving the addition to the building only in the same material and color scheme as the rest of the facade. The applicant has agreed to return to the Commission in the near future regarding the issues of landscaping, lighting, paving and fencing. The Commission hereby requires that by January 30, 2017, the applicant prepare a complete site plan/special permit application for those facets of the desired improvements, and submit said application to the Planning and Zoning Commission. The Commission is not conditioning the start of construction of the addition upon the submission of the plan regarding the other site improvement matters.
- C. The building addition design has been recommended by the ARB. The new façade color renovation of the building has not been recommended. At this time, the Commission is approving the new building addition to match the existing façade coloring. If a new color scheme is approved by the ARB, then the applicant shall implement that new color scheme so that it is completed prior to the occupancy of the addition.
- D. The approved use is as described in the applicant's narrative. Any change to that specific type of use shall require review and action by the Planning & Zoning Commission.
- E. Because the proposal includes no new impervious surface (it is a relatively small addition being constructed over part of the existing parking lot), the Commission is waiving the requirement for addressing stormwater quantity.
- F. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Zoning and Building Permits are required for the proposed addition.
- G. 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.
- H. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 4, 2017). This may be extended as per Sections 1009 and 1028.

All provisions and details of the application 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. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action, including the filing a Special Permit form in the Darien Land Records, or this approval shall become null and void.

Chairman Cameron then read the following agenda item:

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / GENERAL MEETING / PUBLIC HEARING
OCTOBER 4, 2016
PAGE 26 OF 26

Approval of Minutes

August 9, 2016 Special Meeting

Several clarifications were discussed and agreed upon. The motion was made to adopt the corrected Minutes. The motion was made by Mr. Voigt, seconded by Mr. Sini and passed by a vote of 4 to 0 to 2. Mr. Cunningham and Mr. Rand abstained.

September 6, 2016

Several clarifications and corrections were discussed and agreed upon. The motion to adopt the corrected Minutes was made by Mr. Sini and seconded by Mr. Olvany and passed by a vote of 4 to 0 to 2. Mr. Cunningham and Mr. Rand abstained.

September 13, 2016

The motion was made to adopt the Minutes subject to the correction of minor typographical errors. The motion was made by Mr. Sini, seconded by Mr. Cunningham and passed by a vote of 5 to 0 to 1 (Mr. Rand abstained).

September 22, 2016 Special Meeting

Mrs. Cameron was the only one who attended that meeting and she approved the Minutes as presented.

Mr. Ginsberg said that the next meetings of the Commission would be on October 18th and 25th. There being no further business, the following motion was made: that the meeting be adjourned. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 10:50 P.M.

Respectfully submitted,

David J. Keating
Assistant Director of Planning

10.04.2016min