

**PLANNING AND ZONING COMMISSION
DRAFT MINUTES
GENERAL MEETING / PUBLIC HEARING
OCTOBER 25, 2016**

Place: Room 206

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Doneit
RECORDER: Syat
Channel 79

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

GENERAL MEETING

Discussion, deliberation, and possible decisions regarding the following:

Special Permit Application #292, Town of Darien, 701 Boston Post Road. Proposing to convert the former Community Fund building to a medic station with office space and living quarters.
PUBLIC HEARING CLOSED: 10/18/2016

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and approved by a vote of 5-0.

Chairman Cameron indicated that some new correspondence had been received from Marian Castell, the Town Historian, previously received in March 2016, with respect to the building on the property. The letter recommends that any exterior changes be kept to a minimum, given the historic nature of the building that is located within a historic district.

Mr. Ginsberg reiterated that most of the proposed work will occur within the interior of the building and that the work does not rise to the level of needing a building or zoning permit. Chairman Cameron noted that she thought it was a great use of the building.

Mr. Sini declined to comment on the use of the building, but noted that from a zoning perspective he thought the use is appropriate for the property. There were no other general comments about the application from Commission members.

The Commission discussed changes/amendments to the draft Resolution of approval.

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. Rand, seconded by Mr. Voigt and approved by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 25, 2016**

Application Number: Special Permit Application #292

Street Address: 701 Boston Post Road
Assessor's Map #16, Lot #59, #60, and #61

Name and Address of Property Owner: Town of Darien
And Applicant: 2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant's Representative: Kathleen C. Buch
Town Administrator
c/o 2 Renshaw Road
Darien, CT 06820

Activity Being Applied For: Proposing to convert the former Community Fund building to a medic station with office space and living quarters.

Property Location: The subject property is located on the northeast side of Boston Post Road, approximately 225 feet east of its intersection with Academy Street.

Zone: Municipal Use (MU) Zone

Date of Public Hearing: October 18, 2016

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: October 7 & 14, 2016

Newspaper: Darien News

Date of Action: October 25, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 5, 2016

Newspaper: Darien News

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

- the proposed use and activities are municipal functions to provide emergency response services from within a municipal building and must comply with all provisions of Sections 420 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plot plan and application narrative, 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. This application is to convert the former Community Fund building at 701 Boston Post Road for a paramedic to be stationed within the office space and living quarters. There would be sleeping quarters within the building. As shown on the submitted survey, parking for this building is behind the structure, in a parking lot shared on the same property with Old Town Hall Homes. Medical services would not be provided at the site (like a clinic or doctor's office); rather it would be a base from which the paramedic would depart to respond to emergencies at various locations within the community.
2. At the public hearing it was acknowledged that a carport structure(s) would be desired in order to keep the paramedics' vehicles sheltered from the snow and ice. The applicant's representative noted that such a request may be put forth sometime in the near future.
3. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
4. As required by Section 1005a, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, 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, as revised, the application is in harmony with the orderly development of the district in which it is located.
5. Per Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. Pursuant to Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, as required to be modified herein, 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.
7. The Commission finds, pursuant to Section 1005g, that consideration has been given to the protection, preservation and/or enhancement of the natural environment.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #292 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The applicant represented at the public hearing and within the application materials that the dispatched paramedics would: 1) not use their sirens until they get to Boston Post Road; and 2) would always exit onto Boston Post Road when leaving the site, rather than exiting to Academy Street. Those representations are both conditions of this approval.
- B. The submitted narrative and plans do not reflect any changes outside of the footprint of the existing building. As noted, a carport structure(s) will possibly be requested sometime in the future, which will require a site plan/special permit review and action by the Commission.
- C. Since there is no new impervious surface created as part of this request, the Commission hereby waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- D. No new signage or major exterior work for this new building was proposed to the Architectural Review Board (ARB) or is being requested at this time. Any new signage requires review and action by the Architectural Review Board, and a subsequent Zoning and Building Permit.
- E. 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.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Section 1005 of the Darien Zoning Regulations, including but not limited to implementation of the approved plan within one year of this action (October 25, 2017). This may be extended as per Section 1005.

All provisions and details of the plans 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. A Special Permit form shall be filed in the Darien Land Records prior to the new use of the building.

Chairman Cameron then read the following agenda item:

Mandatory Referral #4-2016, Darien Public Works Dept., 126 Ledge Road.
Proposed substantial improvement to Town garage property.

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Mr. Ginsberg noted that there are two requests before the Commission. The first being the referral report for substantial improvements to Town property, and the second being the Special Permit/site plan and Flood Damage Application for the work that is proposed within the flood zone. Mr. Ginsberg noted that Ed Gentile and Pat D'Arinzo were present to explain the application in detail.

Mr. Ginsberg explained that the ZBA draft approval for the project, dated October 19, 2016, and a report from Richard Jacobson, had been placed in the Commissions' packets. It was noted that the EPC requested that EPC staff Richard Jacobson write up an approval for their action on November 2, 2016.

Mr. Voigt indicated that he was surprised that the application was filed under the R-1/3 residential zone instead of the Municipal Use (MU) zone. Mr. Voigt asked if the ZBA decision was tied to the fact that the property is in the R-1/3 zone.

Mr. Ginsberg noted that a variance for the project would be required regardless of whether the site was in the R-1/3 zone or the Municipal Use zone. It was also noted that the ZBA recommended that in the future, the right-of-way of Ledge Road be modified to eliminate inconsistent configurations that currently exist. This would partially involve adjusting the property line for the site.

Mr. Ginsberg further noted that the application of the Municipal Use zone would not have benefited the applicant in any way. Mr. Sini noted that in the future, application of the Municipal Use zone would give the Town additional flexibility and that this recommendation should be included in the resolution.

Mr. Ginsberg spoke about the benefits of the proposed improvements and consistency with the Town Plan. Mr. Voigt and Mr. Sini asked staff to issue a report stating that the proposed improvements are consistent with the Town Plan. The Report reads as follows:

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
DARIEN PUBLIC WORKS GARAGE EXPANSION
126 LEDGE ROAD
OCTOBER 25, 2016**

Mandatory Referral #4-2016, Darien Public Works Dept., 126 Ledge Road.

Proposed substantial improvement to Town garage property.

The Planning & Zoning Commission reviewed the memo from DPW Director Ed Gentile dated October 18, 2016. That memo notes that the garage is now shared amongst the Public Works Department, Parks and Recreation Department and Board of Education facilities group.

In that memo, it is noted that the proposed expansion will include numerous improvements to the 126 Ledge Road property. This proposal is directly addressed in the 2016 Town Plan of

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Conservation & Development. It is noted in the Plan that an addition is being planned to address needs, and that the existing facility is not expected to be adequate for the community needs within the next ten years.

Thus, the Commission finds that the proposal is fully consistent with the 2016 Town Plan of Conservation and Development.

Chairman Cameron then read the following agenda item:

PUBLIC HEARING

Special Permit Application #89-H/Site Plan, Flood Damage Prevention Application #363, Land Filling & Regrading Application #396, Town of Darien Public Works Garage, 126 Ledge Road. Proposing to construct additions and alterations to the existing Public Works Garage; install a new above ground fuel tank; and to perform related site development activities within a regulated area. The subject property is located on the north side of Ledge Road approximately 1,400 feet west of its intersection with Boston Post Road, and is shown on Assessor's Map #39 as Lots #20 and #21 in the SB and R-1/3 Zones.

Mr. Gentile indicated that his significant changes are meeting the requirements of DEEP as a general permit holder for the site and getting his wash bays up and running. The DPW currently has two 2,000 gallon tanks – one for fuel and one for diesel. Mr. Gentile noted that there was a 10,000 gallon fuel tank located at the Police Department that is no longer there. Mr. Gentile indicated that a new proposed 10,000 gallon fuel tank on the site would hold 4,000 gallons of diesel and 6,000 gallons of fuel. Lastly, Mr. Gentile indicated the application calls for relocating the generators from the basement of the building to the side of the building and the electrical panel to the main level. He indicated that the electrical panel would back-feed the lower levels. Mr. Gentile noted that the relocation of the generator and main electrical panel bring this infrastructure out of the flood zone from elevation 39 to elevation 41.

Chairman Cameron asked if there were any comments from the Commission and then whether there was anyone from the public who wished to speak. There were no questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and approved by a vote of 5-0.

Chairman Cameron then read the following agenda item:

GENERAL MEETING

Mandatory Referral #5-2016, Darien Public Works Dept., Settler's Trail/Clock's Lane sewer extension.

Proposed extension of sanitary sewer system.

Mr. Sini questioned whether the application was tied to the sewer extension project that was completed for Knobel Hill. Mr. Ginsberg deferred to Mr. Gentile, but noted that the proposal would benefit residents in the area with small lots, ledge, and old septic systems and that the Sewer Commission has already reviewed the application. Mr. Gentile indicated that he does not anticipate any issues with respect to sewer capacity as a result of the proposal.

There was no further comment from the Commission or the public. Mr. Sini indicated that staff could write a report on the matter. The Report reads as follows:

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
SANITARY SEWER EXTENSION
SETTLER'S TRAIL AND CLOCK'S LANE
OCTOBER 25, 2016**

Mandatory Referral #5-2016, Darien Public Works Dept., Settler's Trail/Clock's Lane sewer extension.

Proposed extension of sanitary sewer system.

The Planning & Zoning Commission reviewed the memo from DPW Director Ed Gentile dated October 19, 2016.

The proposed sewer extension would be approximately 1,000 feet in length, and serve eleven houses. The 2016 Town Plan of Conservation & Development notes on page 147 that there is currently no "sewer avoidance area", and thus, all areas of Darien are eligible for public sewers.

The Commission finds that the proposal is fully consistent with the 2016 Town Plan of Conservation and Development, and town policies.

Chairman Cameron then read the following agenda item:

PUBLIC HEARING

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

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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, WAS IMMEDIATELY CONTINUED TO 10/4/2016, AND THEN TO 10/25/2016. HEARING TO BE IMMEDIATELY CONTINUED TO NOVEMBER 1, 2016.*

Chairman Cameron immediately continued the Public Hearing to November 1, 2016. She then read the next agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #393, Almond & Carol Nickerson, 20 Robin Hood Lane. Proposing to fill and regrade in association with the construction of a replacement single-family residence and associated in-ground pool, and to perform related site development activities. The subject property is located on the northwest side of Robin Hood Lane approximately 525 feet north of its intersection with Sedgwick Avenue, and is shown on Assessor's Map #17 as Lot #75 in the R-1/3 Zone. *HEARING OPENED 10/18/2016.*

Chairman Cameron indicated that she thought the only open item is how the applicant is getting stormwater to the storm drain on the site.

Mr. Maslan, the attorney for the applicant, stated that the issue had been resolved and that revised materials were sent over to Mr. Canas, from Tighe & Bond, for comment. He indicated that Mr. Canas wrote a letter, dated October 22, 2016, indicating that all of his previous concerns had been addressed. Mr. Ginsberg read the letter aloud.

Attorney Maslan indicated that the floor of the garage is proposed to be raised up, but not the house itself. Mr. Voigt inquired if the height of the retaining wall is proposed to be increased.

Mr. Sonnichsen, the applicant's engineer, indicated that the retaining wall would be raised one (1) foot to match the grade of the driveway and that the total height of the wall is seven (7) feet.

Mr. Voigt inquired if there was to be a fence on top of the wall and expressed concerns about screening and visual impacts, particularly from the neighboring property. Mr. Sonnichsen said that they are proposing a form liner to give the wall the appearance of a stone wall and that they would be amenable to adding landscaping / arborvitae if desired by the Commission. He indicated that there is approximately 15-feet between the neighboring property where no grading is proposed.

Mr. Sonnichsen also noted that the test pits were added to the plans in the vicinity of the stormwater infiltration units on the south side of the retaining wall and that a permeability analysis and description of the test pits was also submitted.

Chairman Cameron asked if there were any additional comments from the Commission and then whether there was anyone from the public who wished to speak. There were no further questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and approved by a vote of 5-0.

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At about 8:25 P.M., Chairman Cameron then read the following agenda item:

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.

Mr. McAlister, the applicant's engineer from McChord Engineering, said that they had last appeared before the Commission on August 9, 2016, at which time the Commission deemed the application inconsistent with the EPC approval that was granted during the subdivision process. He indicated that he had reviewed the amended plans, dated October 7, 2016, with Richard Jacobson and that Mr. Jacobson is of the opinion that the plans are now consistent with the prior EPC approval.

Mr. McAlister reviewed the amendments to the plans which include a slightly reduced building footprint of 2,700 square feet, elimination of the retaining wall at the rear of the property, including revised grading, and preservation of several trees that were originally proposed to be removed. The closest distance to the inland wetlands on the property is 21 feet, which is unchanged from the original proposal.

Chairman Cameron asked if there were any comments from the Commission and then whether there was anyone from the public who wished to speak. There were no questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and approved by a vote of 5-0.

Chairman Cameron then read the following agenda item:

Business Site Plan #258-A, BlueMercury, 1015 Boston Post Road. Request to offer services ancillary to the existing retail business. The subject property is on the northwest corner formed by the intersection of Boston Post Road and Day Street, and is shown on Assessor's Map #73 as Lot #15 & #16 in the CBD Zone.

Lily Goodson, the applicant's representative, indicated that BlueMercury had been in their current location on Boston Post Road since March 2015 and that they occupy approximately 1,800 SF. Ms. Goodson described their business and indicated that they were before the Commission to request the ability to offer ancillary services to their existing business, within an approximately 108 SF existing tenant space. She indicated that no construction would be necessary.

Ms. Goodson described the ancillary services as services performed in a private setting on a one-to-one basis including facials, waxing, microderm abrasions and other similar services.

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Mr. Sini inquired as to how many seats would be in the room and whether there was a waiting room. Ms. Goodson indicated that there would be only one seat and that there is a small waiting room; however, that services would be booked ahead of time and that customers would not typically be waiting for services. She indicated that the waiting area is located in the same area as the restrooms and a stockroom. The 108 SF room is currently used for extra stock, but was designed to be able to be converted for use as a spa service room if the need arose and approvals were granted.

Mr. Voigt inquired as to where stock would be stored if the room was to be used as a spa. Ms. Goodson responded that another existing stockroom was sufficient for the needs of the business.

Ms. Goodson also indicated that they performed a parking analysis on October 17th and 18th to determine the number of open parking spaces directly around the store during operating hours. She said that operating hours were from 10am-7 P.M. Monday-Sat and 10 A.M.-6 P.M. on Sundays. Ms. Goodson went on to describe the results of the analysis that was performed on Day Street, the parking lot in back of the store and on the Boston Post Road in front of the store and directly across the street from the store.

Commission members agreed that there would not be parking issues in connection with the ancillary use and that at most the business is adding two cars to parking in the area. Ms. Goodson indicated that they would hire one additional employee to provide the ancillary services, but that person would also serve as a regular floor employee when appointments are not booked. Mr. Cunningham questioned whether the new use would require a permit from the Health Department. Ms. Goodson responded that she would look into it. Mr. Cunningham suggested that the permit be made a condition of approval if needed.

Chairman Cameron asked if there were any additional comments from the Commission and then whether there was anyone from the public who wished to speak. There were no further questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and approved by a vote of 5-0.

Chairman Cameron then read the following agenda item:

Special Permit Application #293, Karen Hand, 679 Boston Post Road. Proposing to establish an acupuncture office (a personal service use) in the first floor of the existing building. The subject property is located on the west side of Boston Post Road, approximately 425 feet southwest of its intersection with Brookside Road, and is shown on Assessor's Map #16 as Lot #63 and is located in the DB-1 Zone.

Karen Hand, the applicant, indicated that she was a licensed acupuncturist that had last come before the Commission in March 2015 for approval of a practice in Noroton Heights which was approved by the Commission at that time.

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Ms. Hand said that she is seeking approval for her practice to include two treatment rooms on the first floor of the building. She noted that the first floor is open and that Fire Marshal Bob Buch has required that a fire wall be put up to accommodate the two separate tenants in the building. She noted that Denemedé is located on the second floor of the building.

Ms. Hand indicated that there typically would not be more than two patients at a time with the exception of perhaps a third waiting for treatment and that parking would not be an issue. She also noted that in addition to her normal weekday hours that she would offer treatments on weekends by appointment only.

Mr. Ginsberg noted that the parking spaces in the rear of the building are shared among two separate buildings.

Chairman Cameron asked if there were any additional comments from the Commission and then whether there was anyone from the public who wished to speak. There were no further questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Rand and approved by a vote of 5-0.

At about 8:45 P.M., Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #166-A, Flood Damage Prevention Application #128-B, Carter Sullivan, 118 Five Mile River Road. Proposing to construct additions and alterations to the existing single-family residence and to perform related site development activities within regulated areas. The subject property is located on the west side of Five Mile River Road, approximately 275 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #21 and is located in the R-1 and R-1/2 Zones.

Mr. Sini noted that the application was a modest expansion. Mr. Ginsberg confirmed that the Commission is reviewing this because the property and proposed improvements are located within both the coastal area management area and the flood zone.

Wilder Gleason, the applicant's attorney, said that Rita Gadson, the applicant's closest neighbor, who serves on the Town's ARB, believes the improvements are in keeping with the architectural character of the area and that she doesn't have an issue with the application.

Attorney Gleason indicated that they received a variance on October 19, 2016 to permit the floor at existing levels instead of four steps up to meet the flood regulations that were adopted in 2013. He said that the additions on the front and back side are designed to meet the FEMA regulations. He further noted that the applicant received a variance from the ZBA to keep the basement when a large addition was added to the home in 1998.

Attorney Gleason explained that the applicant's engineer designed the plans to treat the first inch of flush and that they are asking the Commission for a water quality waiver, under Section 880 of the Darien Zoning Regulations.

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Attorney Gleason indicated that the proposal adds a little over 1,000 SF with 325 square feet on the first floor, with a total of 834 square feet of habitable space. He noted that the basement has not been finished and that all of the mechanicals have been moved out. He further noted that the HVAC compressors complied with the old flood damage regulations in their current location, but now they're non-conforming, so they are going to move the compressors around to the back of the garage, elevate them on platforms and screen them with landscaping.

Mr. Ginsberg noted that the Darien Health Department is not requiring that the applicant connect to public sewer at this time even though public sewer is available.

Chairman Cameron asked if there were any additional comments from the Commission and then whether there was anyone from the public who wished to speak. There were no further questions from the Commission and no comment from the general public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Rand, seconded by Mr. Sini and approved by a vote of 5-0.

Chairman Cameron then read the following agenda item:

GENERAL MEETING

Discussion and deliberations ONLY regarding the following:

Special Permit Application #291, Brad & Ashley Katsuyama, 6 Windsor Road. Proposing to install a sport court with associated stormwater management and to perform related site development activities. *PUBLIC HEARING CLOSED: 10/18/2016.*

Mr. Ginsberg noted that there are no major issues with the application and that staff will draft a resolution for the November 1, 2016 Commission meeting.

Chairman Cameron then read the following agenda item:

Flood Damage Prevention Application #362, Land Filling & Regrading Application #395, Wesley & Kristine Depp, 11 Holly Lane. Proposing to raze the existing dwelling and to construct a new replacement single-family residence and to perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED: 10/18/2016.*

Mr. Sini recused himself from discussion and deliberation on the application.

Mr. Ginsberg said that the applicant proposes to construct a new replacement single-family residence and put in a rain garden that will not hold backwater. It was noted that the applicant has EPC approval.

Chairman Cameron noted that the proposed house has been moved further away from the watercourse on the property and has a small crawl space. It was noted that no basement is proposed as part of the proposed improvements.

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Mr. Cunningham questioned whether there was a retaining wall adjacent to the stream on the property. Mr. Ginsberg confirmed this is the case and noted the wall is proposed to be two to three feet high. Mr. Voigt and Mr. Cunningham noted that they have no issue with the application. Mr. Ginsberg indicated that staff would draft a resolution for the November 1, 2016 Commission meeting.

Chairman Cameron then read the following agenda item:

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. *PUBLIC HEARING WAS CLOSED ON 10/4/2016.*

Mr. Sini noted that there is excess room in the rear of the property and that the lot widens out on the western side. He indicated that he didn't have any issues with the application since the proposed improvements are not encroaching on any other surrounding properties.

Chairman Cameron noted that they are also protecting a tree in the rear of the property. She also questioned whether outdoor storage includes cars. Mr. Ginsberg said that with the driveway and garage he didn't think that would be considered storage. Chairman Cameron then clarified that cars temporarily parked is not the same as cars being stored and that any cars being stored should be done so inside the building.

Mr Sini referenced "refuse collection" in paragraph two of the resolution as addressing concerns of Chairman Cameron.

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. Voigt, seconded by Mr. Rand and approved by a vote of 5-0. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 25, 2016**

Application Number: Business Site Plan #86-E/Special Permit

Street Address: 365-367 Boston Post Road
Assessor's Map #14 Lots #49 and #50

Name and Address of Property Owner(s): 365 Boston Post Road LLC and 367 Boston Post Road, LLC
365 Boston Post Road

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Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject properties are located on the north side of Boston Post Road, approximately 250 feet west of its intersection with Birch Road.

Zone: DB-2

Date of Public Hearing: September 22, 2016 immediately continued to October 4, 2016

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

Publication of Hearing Notices

Dates: September 9 & 16, 2016

Newspaper: Darien News

Date of Action: October 25, 2016

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
November 5, 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 650, 880, 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 submitted redevelopment plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The application proposes 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

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management on the rear portion of the property; and to perform related site development activities. There was previously a residence at 367 Boston Post Road (the rear property). That house has since been razed, and that lot is now vacant. The proposal is to combine the two existing lots.

2. The proposal includes the construction of a 40' x 60' one-story pre-fabricated garage. This garage will be used only for storage and parking. It will be an accessory use to the buildings which now exist at 365 Boston Post Road. The shed in the northwest corner of the site, within the required 25 foot side buffer area adjacent to the residential zone, is proposed to be removed. As shown on the submitted plans, the buffer area will be enhanced with at least ten new arborvitae plants, each at least eight feet tall. Pursuant to the Zoning Regulations, the buffer area shall be free of any building or use other than landscaping, fencing or screening to provide visual and noise separation for the protection of the adjacent residential zone. It cannot be used for any parking, storage refuse collection, utilities, or any other use.
3. The Architectural Review Board (ARB) reviewed this plan at its September 20, 2016 meeting, and sent a letter dated September 27, 2016, with their recommendation that the new building have "Evergreen" walls and doors, with a roof of "Fox Gray". The original proposal was for a "Brick Red" façade with "Polar White" garage doors and roof. It was noted that the closest neighbor sent in a letter stating that they also preferred the "Evergreen" color.
4. During the public hearing, it was noted that there is currently an oak tree near the western property boundary. The applicant's attorney confirmed that tree protection can be installed prior to construction of the garage and the proposed driveway extension/expansion, in an effort to save that tree from potential damage during construction.
5. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, 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.
6. The location and nature of the proposed use is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. 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.
8. 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.
9. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

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NOW THEREFORE BE IT RESOLVED that Business Site Plan #86-E/Special Permit is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. All new construction and related activity shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Zoning Location Survey depicting Proposed Lot Consolidation and Proposed Conditions 365 & 367 Boston Post Road prepared for 365 Boston Post Road LLC and 367 Boston Post Road LLC, by William W. Seymour & Associates, dated June 8, 2016 and last revised August 8, 2016.
 - Site Plan prepared for Robert C. Bantle #365 & 367 Boston Post Road, by LBM Engineering LLC, scale 1"=20', dated August 8, 2016.

It is noted that the applicant has proposed to remove the storage shed and to combine the two properties as part of this application. That shall be accomplished both on the site and by filing the appropriate map and deed in the Darien Land Records prior to the issuance of any Zoning and Building Permits.

- B. In accordance with the recommendation of the Architectural Review Board, the new building shall have "Evergreen" walls and doors, with a roof of "Fox Gray".
- C. Since there is no new public or private road construction, the Commission waives the requirement for submission of a Performance Bond. All utility extensions shall be underground.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the Site Plan in Condition A, above, AND tree protection for the oak tree near the west property line. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. No outdoor storage has been proposed, and none is approved. The required landscaped buffer area adjacent to the residential zone shall be established and maintained.
- F. Because of the nature of the existing and proposed site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations.

STORMWATER MANAGEMENT/DRAINAGE

- G. The submitted Site Plan last revised August 8, 2016 shows proposed infiltrator units to the northwest and southeast of the proposed building. Those are an integral part of this application and must be installed as part of the site development and construction of the building.
- H. The applicant's engineer shall prepare a Stormwater Facilities Maintenance Plan for the subject property for the proposed Cultec units. A Notice of Drainage Maintenance Plan shall be filed in

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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 accessory building.

- I. The property owner shall have the continuing obligation to make sure that stormwater runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- J. No new signage for this new building was proposed to the Architectural Review Board (ARB). Any new signage requires review and action by the Architectural Review Board, and a subsequent Zoning and Building Permit.
- K. All site work, including but not limited to the landscaping and stormwater management as shown on the approved plans and as noted herein shall be properly installed and completed prior to the use of any space within the building and/or the issuance of a Certificate of Occupancy.
- L. A final as-built drawing and certification shall be submitted confirming that the entire project, including the landscaping and stormwater management, has been properly completed per the approved plans, as noted in Condition A, above. This certification shall be submitted prior to the issuance of a Certificate of Occupancy for the project, and/or use of the building.
- M. 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.
- N. 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. This includes, but is not limited to, final approval from the Darien Fire Marshal for emergency lighting.
- O. 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 25, 2017). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans 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. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within sixty days of this approval at the same time a mylar (to be reviewed and stamped by the Planning & Zoning Director) filed in the Darien Land Records combining the two properties prior to the issuance of the Zoning and Building Permits for the proposed building.

Chairman Cameron then recused herself from the meeting to avoid any perception of a conflict of interest on the following matter. Mr. Voigt then read the following agenda item:

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Flood Damage Prevention Application #360. “Tony” Li, 55 Brookside Drive. Proposing to fill and regrade adjacent to the existing residence and perform related site activities within a regulated area. *PUBLIC HEARING CLOSED: 10/18/2016*

Mr. Sini questioned whether sediment and erosion control measures needed to be considered for the application. Mr. Ginsberg noted that measures would only be required as may be necessary due to site conditions.

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. Rand and approved by a vote of 4-0. The Adopted Resolution reads as follows:

DRAFT

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 25, 2016**

Application Number: Flood Damage Prevention Application #360

Street Address: 55 Brookside Drive
Assessor's Map #47 Lot #7

Name and Address of Property Owner:
And Applicant: Xiao Jun "Tony" Li & Baohua Zneng
55 Brookside Drive
Darien, CT 06820

Name of Applicant's Representative:
At the Public Hearing: Steve Danzer
c/o Steven Danzer, PhD & Associates, LLC

Name of Applicant's Representative:
As noted on the submitted application: Gregory Kogan
1 Katy Lane
Norwalk, CT 06851

Activity Being Applied For: Proposing to fill and regrade adjacent to the existing residence and perform related site activities within a regulated area.

Property Location: The subject property is located on the east side of Brookside Drive, approximately 825 feet north of its intersection with Anthony Lane.

Zone: R-1/5

Date of Public Hearing: October 18, 2016

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: October 7 & 14, 2016 Newspaper: Darien News

Date of Action: October 25, 2016 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 5, 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 and 820 of the Darien Zoning Regulations for the Commission to approve this project.

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- 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 at the public hearing, 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. This application is to fill and regrade adjacent to the existing residence and perform related site activities within a regulated area.
2. At the public hearing, it was noted that the fill was right up against the house, and that less than one truckload of fill is required to complete this project.
3. The following comments were received from the Darien DPW Department regarding this project:
 - Brookside Drive is a private road and as such does not require street opening permit.
 - Filling around the house is minimal and unlikely to affect flood elevations in surrounding areas.
 - Plan appears to be more of a flood protection project as work is proposed directly adjacent to and limited to proximity of building and only on one side of the building.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #360 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other activity shall be in accordance with the plans entitled:
 - Topographic Survey prepared for Xiao Jun Li & Bao Hua Zneng, #55 Brookside Drive, by Advanced Surveying Land Surveyors, scale 1"=10', dated 09-12-2016.
- B. Very limited filling/regrading of the site has been shown on the submitted plans. No filling or regrading beyond that shown on the plan is authorized. It is imperative that the existing drainage pattern of the area not be interrupted or re-routed.
- C. During construction, the applicant shall utilize the sediment and erosion controls as may be necessary due to site conditions. These sediment and erosion controls as may be needed due to site conditions, shall be installed and maintained to minimize any adverse impacts during the

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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. Once the regrading is complete the applicant shall submit verification from the project engineer or architect that all aspects of the regrading have been completed in compliance with the approved plans and the flood damage prevention regulations. A final “as-built” survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations. The applicant shall submit written verification from the project engineer that all aspects of the regrading have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.
- E. 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.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (October 25, 2017). This may be extended as per Section 829f.

All provisions and details of the plans 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.

Chairman Cameron returned to the meeting and then read the following agenda item:

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

A motion was made by Chairman Cameron and seconded by Mr. Sini to discuss scheduling of future meetings under “Other Business”. The motion was unanimously approved by the Commission, 5-0.

The Commission discussed meeting dates for the remainder of 2016 and agreed that based on the Commission members’ schedules that Commission meetings would be held on November 1st, 22nd, and the 29th and that if necessary, December 13th could be used as a “relief valve” to wrap up any open business.

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Mr. Ginsberg indicated that he would provide the Commission with project updates and updates on the implementation of the Plan of Conservation and Development (POCD) at the November 1, 2016 Commission meeting.

Mr. Voigt asked if staff would be able to e-mail Commission meeting minutes to members once completed instead of waiting to include in packets to members. He indicated that this would give Commission members additional time to review.

It was agreed that the Corbin rezoning application would be tabled until the first Commission meeting in January 2017. Mr. Ginsberg indicated that by moving the Corbin rezoning application to January, the applicant would need to grant an extension on statutory timeframes for opening of the public hearing. Commission members asked that they be given a copy of the Corbin application prior to the upcoming holidays and that the application be posted on the Town website. The Commission further asked staff to compile comments by Commission members.

With respect to the Corbin rezoning application, Mr. Voigt inquired as to whether it would be appropriate to schedule a balloon test in the location of the proposed improvements to better assess potential impacts in connection with building height. Commission members all agreed that this would be a good idea.

Mr. Cunningham asked that the chart showing proposed square footage be updated as soon as possible.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and unanimously approved. The meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Fred W. Doneit, GISP
Senior Planner

10.25.2016min