

**SUMMARY MEETING MINUTES**  
**DARIEN ZONING BOARD OF APPEALS (ZBA)**  
**July 17, 2013**

**REGULAR MEETING**

Darien Town Hall - Room 206 – 7:48 to 10:37 PM

ZBA members present: Gary Greene, Chuck Deluca, Vic Capellupo, Rich Wood, Ruth Anne Ramsey, John Ashburne

Staff Present: Code Compliance Officer Robert Woodside and Recorder Bonnie Syat

**OPENING**

ZBA Chair Gary Greene opened the meeting at 7:48 PM. He requested cooperation and explained several procedural steps that would be used to conduct the meeting following the posted Agenda.

**PUBLIC HEARINGS**

The following hearing was held with various plans and submitted application materials reviewed, possible correspondence and public comment considered, questions asked, and comments made by the ZBA members and Staff:

**CALENDAR NO. 35-2013** - the application of Michael T. Nedder, Esq. on behalf of Jennifer Lia filed on May 22, 2013 for variances of Section 406 of the Darien Zoning Regulations; to allow the construction of a two story addition and installation of AC and propane tank equipment; Section 406: 29.0 in lieu of 35.0 feet minimum required side yard setback for the addition, 28.0 in lieu of 35.0 feet minimum required side yard setback for the AC equipment, and 33.0 in lieu of 35.0 feet minimum required side yard setback for the propane tank. The property is situated on the north side of Tower Drive approximately 100 feet east of the intersection with Tower Lane and is shown on Assessor's Map #1 as Lot #127, being 33 Tower Drive, and located in the R-2 (residential) Zone.

Attorney Michael Nedder and Robert Lia answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**DELIBERATION AND DECISION**

The following decision was made after the ZBA members reviewed the public hearing comments, the submitted plans and other application materials, and carefully considered possible stipulations to ensure the best possible project fit among the neighboring properties:

**CALENDAR NO. 35-2013** - The application of Michael T. Nedder, Esq. on behalf of Jennifer Lia, 33 Tower Drive. Upon a motion by John Ashburne, seconded by Rich Wood, the ZBA voted 4-1 to DENY IN PART AND GRANT IN PART WITH STIPULATIONS the above delineated, requested variances. Those voting in favor of the motion were Gary Greene, Ruth Anne Ramsey, John Ashburne and Rich Wood. Chuck Deluca was opposed to the motion. State of Connecticut Statutes require 4 affirmative votes out of the 5 voting ZBA members to approve a variance of the Zoning Regulations. Therefore this request is denied in part and granted in part with stipulations.

## **PUBLIC HEARINGS**

The following hearings were held with various plans and submitted application materials reviewed, possible correspondence and public comment considered, questions asked, and comments made by the ZBA members and Staff:

**CALENDAR NO. 42-2013** - the application of William Roman and Roman Remodeling llc on behalf of Jacqueline Judge filed on June 19, 2013 for a variance of Section 406 of the Darien Zoning Regulations; to allow the raising of the existing residence with the construction of modified entry staircases and deck features; Section 406: 37.0 in lieu of 30.0 feet maximum allowable building height. The property is an interior lot accessed by a common driveway situated on the west side of Nearwater Lane approximately 430 feet south of the intersection with Nickerson Lane and is show on Assessor's Map #52 as Lot #3, being 97 Nearwater Lane, and located in the R-1 (residential) Zone.

Contractor William Roman answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 43-2013** - the application of Greg & Courtney Galligan filed on June 19, 2013 for variances of Sections 406 and 1102 of the Darien Zoning Regulations; to allow the existing detached storage barn to be renovated into a great room/work space and bath use; Section 406: 3.4 in lieu of 10.0 feet maximum required side yard setback; and Section 1102: determination that the proposed use is an acceptable alteration within the minimum required side setback space. The property is situated on the west side of

Raymond Street approximately 700 feet north of the intersection with Little Brook Lane and is shown on Assessor's Map #33 as Lot #10, being 97 Raymond Street, and located in the R-1/2 (residential) Zone.

Greg and Courtney Galligan answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 44-2013** - the application of Ian McAuley on behalf of 205 Post Road Development Partners, LLC filed on June 19, 2013 for variances of Sections 674b, 675, 904h and 926.2 of the Darien Zoning Regulations; to allow the construction of a drive thru restaurant with stair platform and railing, HVAC and generator/transformer equipment, and the installation of a pole sign; Section 674b: to allow a restaurant use with 0 square feet indoor space devoted to customer tables and seating in lieu of 1,200 square feet minimum required; Section 675: 26.6 in lieu of 30.0 feet minimum required front yard setback for the stair platform; 25.0 in lieu of 30.0 feet minimum required front yard setback for the HVAC and generator/transformer equipment; Section 904h: 4 in lieu of 5 minimum required parking spaces; and Section 926.2: 13.5 in lieu of 30.0 feet minimum required front yard setback for the pole sign. The property is situated on the northwest side of Boston Post Road at the southwest corner formed by the intersection of Boston Post Road and Richmond Drive and is shown on Assessor's Map #13 as Lot #6, being 205 Boston Post Road and located in an SB-E (commercial) Zone.

Jamie Galler and Paul Hopper answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. Neighbors Robbie Chrisnan, Tom Sniffin, Peggy Bartold and Jason Golden questioned, opposed and raised concerns with various aspects of the application. The Public Hearing was then closed.

**CALENDAR NO. 45-2013** - the application of Lance E. Zimmerman and Zimmerman Architecture on behalf of Michael & Elizabeth DeSanctis filed on June 19, 2013 for variances of Section 416 of the Darien Zoning Regulations; to allow the raising of the existing residence with modified entry staircases, terrace and deck features, and the construction of second story, attic, and deck features; Section 416: 11.2 in lieu of 18.5 feet minimum required north side yard setback; 11.5 in lieu of 18.8 feet minimum required south side yard setback; 22.7 in lieu of 30.0 total of two side yard setbacks; 22.0 in lieu of 25.0 minimum feet required rear yard setback; on a lot with 26.5 in lieu of 20.0% maximum allowable coverage. The property is located on the east side of Plymouth Road approximately 300 feet south of the northern intersection of Plymouth Road and

Shipway Road and is shown on Assessor's Map #55 as Lot #76, being 9 Plymouth Road and located in the R-NBD (Noroton Bay District - Residential) Zone.

Architect Lance Zimmerman answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 46-2013** - the application of Robert F. Maslan, Jr., Esq. and Maslan Associates PC on behalf of Michael A. Tortorella & Nancy V. Tortorella filed on June 19, 2013 for a variance of Section 406 of the Darien Zoning Regulations; to allow the construction of a second story addition; Section 406: 19.0 in lieu of 25.0 feet minimum required side yard setback. The property is located on the north side of Sylvan Road approximately 180 feet east of the intersection with Brookside Road and is found on Assessor's Map #4 as Lot #75, being 7 Sylvan Road and located in the R-1 (residential) Zone.

Attorney Robert Maslan answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 47-2013** - the application of Jacek Bigosinski and PB Architects on behalf of TJP Capital LLC filed on June 19, 2013 for an interpretation of Section 385 and a variance of Section 334 of the Darien Zoning Regulations; to allow the construction of a replacement two and one-half story dwelling; Section 385: a determination that the subject lot is a legal nonconforming building lot with 70.5 in lieu of 80.0 feet minimum required lot width, and 10,262 in lieu of 14,520 minimum required lot area, and can be properly developed with adequate related site improvements; and Section 334: construction on a building lot with 70.5 in lieu of 80.0 feet minimum required lot width. The property is situation on south side of Edgewood Road approximately 100 feet east of the intersection with Herman Avenue and is shown on Assessor's Map #20 as Lot #93, being 29 Edgewood Road and located in an R-1/3 (residential) Zone.

Architect Jacek Bigosinski answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. Alan Bell provided background information about the property. The Public Hearing was then closed.

## **DELIBERATIONS AND DECISIONS**

The following decisions were made after the ZBA members reviewed the public hearing comments, the submitted plans and other application materials, and carefully considered possible stipulations to ensure the best possible project fit among the neighboring properties:

**CALENDAR NO. 42-2013** - The application of William Roman and Roman Remodeling llc on behalf of Jacqueline Judge, 97 Nearwater Lane. Upon a motion by Gary Greene, seconded by Chuck Deluca, the ZBA voted 5-0 to GRANT WITH STIPULATIONS the above delineated, requested variance.

**CALENDAR NO. 43-2013** - The application of Greg & Courtney Galligan, 97 Raymond Street. Upon a motion by Chuck Deluca, seconded by Gary Greene, the ZBA voted 4-1 to GRANT WITH STIPULATIONS the above delineated, requested variances. Those voting in favor of the motion were Chuck Deluca, Gary Greene, Ruth Anne Ramsey and Rich Wood. Vic Capellupo was opposed to the motion. State of Connecticut Statutes require 4 affirmative votes out of the 5 voting ZBA members to approve a variance of the Zoning Regulations. Therefore this request is granted with stipulations.

**CALENDAR NO. 44-2013** - The application of an McAuley on behalf of 205 Post Road Development Partners, LLC, 205 Boston Post Road. Upon a motion by Chuck Deluca, seconded by Ruth Anne Ramsey, the ZBA voted 4-1 to GRANT WITH STIPULATIONS the above delineated, requested variances. Those voting in favor of the motion were Chuck Deluca, Gary Greene, Ruth Anne Ramsey and Rich Wood. Vic Capellupo was opposed to the motion. State of Connecticut Statutes require 4 affirmative votes out of the 5 voting ZBA members to approve a variance of the Zoning Regulations. Therefore this request is granted with stipulations.

**CALENDAR NO. 45-2013** - The application of Lance E. Zimmerman and Zimmerman Architecture on behalf of Michael & Elizabeth DeSanctis, 9 Plymouth Road. Upon a motion by Gary Greene, seconded by Rich Wood, the ZBA voted 4-1 to DENY the above delineated, requested variances. Those voting in favor of the motion were Gary Greene, Chuck Deluca, Vic Capellupo and Rich Wood. Ruth Anne Ramsey was opposed to the motion. State of Connecticut Statutes require 4 affirmative votes out of the 5 voting ZBA members to approve a variance of the Zoning Regulations. Therefore this request is denied.

**CALENDAR NO. 46-2013** - The application of Robert F. Maslan, Jr., Esq. and Maslan Associates PC on behalf of Michael A. Tortorella & Nancy V. Tortorella, 7 Sylvan Road. Upon a motion by Chuck Deluca, seconded by Vic Capellupo, the ZBA voted 5-0 to GRANT the above delineated, requested variance.

**CALENDAR NO. 47-2013** - The application of Jacek Bigosinski and PB Architects on behalf of TJP Capital LLC, 29 Edgewood Road. Upon a motion by Chuck Deluca, seconded by Vic Capellupo, the ZBA voted 5-0 to GRANT WITH STIPULATIONS the above delineated, requested interpretation and variance.

### **OTHER BUSINESS**

The following additional decisions were made after the ZBA members reviewed the submitted documents, correspondence and/or project plans:

Status of compliance with the approved plans of Calendar No. 26-2012, Paul F. & Amy J. Darrah, 11 Peabody Lane.

Upon a motion by Rich Wood, seconded by Vic Capellupo, the ZBA voted 5-0 to APPROVE revised plans for the as built construction to date.

Possible requested determination and status of efforts to obtain all required permits and begin on-site construction for ZBA Calendar No. 27-2012, regarding the building height determination, Alexander & Diviya Magaro, 203 Long Neck Point Road. The Public Hearing of this matter was June 20, 2012, July 18, 2012 and July 25, 2012. Initial ZBA approval expired on February 3, 2013 without any extension request.

Upon a motion by Gary Greene, seconded by Ruth Anne Ramsey, the ZBA voted 5-0 to GRANT acceptance that the subsequent ZBA Calendar No. 12-2013 project cupola decision included the subject ZBA Calendar No. 27-2012 decision regarding the building height determination.

Possible requested six month extension, to obtain all required permits and begin on-site construction for ZBA Calendar No. 12-2013, regarding the cupola determination, ASL Partners LLC (formerly Alexander & Diviya Magaro), 203 Long Neck Point Road. The Public Hearing of this matter was March 20, 2013 and April 10, 2013. Initial ZBA approval expires on October 19, 2013.

Upon a motion by Gary Greene, seconded by Ruth Anne Ramsey, the ZBA voted 5-0 to GRANT a six month extension of the prior cupola decision including the prior building height determination.

Possible requested amendment to a stipulation, of ZBA Calendar No. 26-2013, regarding overhangs removal, Edmund & Rosanne Fitzmaurice, 2 Clock Avenue. The Public Hearing of this matter was May 22, 2013.

This matter was postponed to September 11, 2013.

Review and approval of 2014 Meeting Schedule.

This matter was postponed to September 11, 2013.

Election of Officers.

After brief discussion this matter was postponed to September 11, 2013.

Approval of Minutes of meeting on May 22, 2013. ZBA members attending this meeting were Vic Capellupo, Gary Greene, Jeff Williams, Ruth Anne Ramsey, John Ashburne, and Rich Wood.

Upon a motion by Gary Greene, seconded by Vic Capellupo, the ZBA voted 4-0 to APPROVE the subject minutes. Gary Greene, Vic Capellupo, Ruth Anne Ramsey and Rich Wood voted in favor of the motion. Jeff Williams and John Ashburne also previously indicated their approval.

Approval of Minutes of meeting on June 19, 2013. ZBA members attending this meeting were Vic Capellupo, Chuck Deluca, Jeff Williams, and Rich Wood.

Upon a motion by Chuck Deluca, seconded by Vic Capellupo, the ZBA voted 3-0 to APPROVE the subject minutes. Chuck Deluca, Vic Capellupo and Rich Wood voted in favor of the motion. Jeff Williams also previously indicated his approval.

## ADJOURNMENT

The meeting was adjourned at 10:37 PM.

These Meeting Minutes,  
Respectfully submitted July 22, 2013,  
by Robert Woodside,  
Code Compliance Officer  
ZBA Staff

*These Minutes were reviewed by the attending ZBA members, modified as necessary, and upon a motion by Vic Capellupo, seconded by John Ashburne, approved by a vote of 4-0 at the ZBA meeting on September 18, 2013. Vic Capellupo, Gary Greene, John Ashburne and Rich Wood voted in favor of the motion.*