

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
February 28, 2023**

Place: Room 206, Darien Town Hall

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Reilly, Barsanti, Balgach, Nedder

STAFF ATTENDING: Ginsberg, Doneit
Recorder: Syat
Channel 79

Vice Chairman Reilly opened the meeting at 7:30 P.M. and read the first agenda item.

PUBLIC HEARING

Coastal Site Plan Review #359-A, Flood Damage Prevention Application #413-A, Land Filling & Regrading Application #511-A, William & Elizabeth Jones, 2 Contentment Island Road.

Proposal to elevate and construct additions to the existing residence, remove the garage and construct a new detached garage, a new swimming pool and terrace, relocate and expand the driveway area; and perform related site development activities within regulated areas, including filling and regrading of the property and installation of stormwater management. The 1.08+/- acre subject property is located on the northwest side of Contentment Island Road approximately 40 feet south of its intersection with Tokeneke Beach Drive, and is shown on Assessor's Map #67 as Lot #65 in the R-1 Zone.

Mr. Doneit provided the Commission with an overview of the application. He noted that this application is similar to a prior application reviewed and approved by the Commission in October 2021 (Coastal Site Plan #359, Flood Damage Prevention Application #413, Land Filling & Regrading Application #511). He said that the Commission received comments on the application from the State of CT DEEP dated February 23, 2023, the Tokeneke Association, dated February 7, 2023, and the property owners of 3 Contentment Island Road. Those comments are included as part of the record on the matter. He also noted that the Zoning Board of Appeals (ZBA) approved this project as part of ZBA Calendar #19-2022 on October 26, 2022. That approval is hereby incorporated by reference. The plans approved by the ZBA allow lifting portions of the existing house and the construction of one and one-half story additions and construction of additional volume on a portion of the lot.

Attorney Alfred Tibbetts, of Butler Tibbetts, the applicant's representative, summarized the proposal. He noted that changes from the previously approved plans include: modifications to the proposed house additions; relocation of the pool and drainage systems; a new detached garage; and modified grading. He said that the applicant is proposing to deed restrict the property, so a larger house can never be built.

Professional Engineer, Andy Soumelidis, of LANDTECH, the applicant's engineer, reviewed the comments provided by Joe Canas of Tighe & Bond. He said that approximately 2 feet of fill would be placed on the south side of the property.

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Mr. Soumelidis noted that a stormwater management system, consisting of underground detention would be installed to address the water quality from the existing residence and proposed improvements, as opposed to detaining water and managing stormwater quantity.

Mr. Soumelidis mentioned that concerns had been raised regarding flooding on Contentment Island Road in the vicinity of the southeastern portion of the site. It was noted that waters from a catch basin on Contentment Island Road in the same area had historically flooded the subject property during times of high tide – water drained from the roadway into a previously existing tennis court. Following the Commission’s previous approval for the property, the tennis court was filled and a new stone/stucco wall at the road edge was constructed. He said that the property owners have worked with the Tokeneke Association to help minimize flooding issues on Contentment Island Road adjacent to the site, by installing a new catch basin in Contentment Island Road that drains through the subject property to Scott’s Cove. He said that the new catch basin would drain approximately double the amount of water when compared to the pre-existing condition.

Mr. William Jones, the applicant and property owner, provided some context on the history of flooding on and in the vicinity of the subject property and said that the new catch basin would help that condition. He said that the Tokeneke Association would be responsible for keeping the new catch basin clean. The Jones’ acknowledged that they would need to maintain the pipes on their own property, as an easement would not be granted to the Association.

Overall, the application is a net reduction in impervious surface on the property, since the prior existing tennis court was removed as part of this project. The applicant requested a waiver from stormwater management requirements of Section 880, since the property is in the lower 1/3 of the watershed and directly adjacent to Scotts Cove and the Long Island Sound.

Professional Engineer Tim DeBartolomeo, of Sound Engineering Associates, the applicant’s structural/coastal engineer responded to questions of Ms. Barsanti, regarding the lifting of the house and the integrity of the walls.

Mr. Nedder questioned whether some water treatment was warranted in connection with the catch basin that would drain to Scotts Cove. Mr. Soumelidis and Mr. Jones said that the proposed drain would only handle a very small amount of water that drains into the Cove from the surrounding roadway and that it wouldn’t make a difference in water quality.

Mr. Balgach asked for clarifications on site coverage.

There being no additional comments from Commission members and none from the public, Mr. Nedder made a motion to close the public hearing on this matter. That motion was seconded by Ms. Barsanti, and was approved by a vote of 4-0.

At about 8:11 p.m. Vice Chairman Reilly read the following agenda item:

Flood Damage Prevention Application #437, Land Filling & Regrading Application #545, Geddes & Julia Johnson, 3 Canoe Trail. Proposal to construct a new two-story addition to the east

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side of the existing residence and south side of the detached garage, to construct a new retaining wall and steps with associated regrading of the property; and to perform related site development activities within a regulated area. The 1.01+/- acre subject property is located on the south side of Canoe Trail at the southwestern corner formed by its intersection with Arrowhead Way, and is shown on Assessor's Map #70 as Lot #51 in the R-1 Residential Zone.

Mr. Doneit provided the Commission with an overview of the application. He explained that the proposal is under review by the Environmental Protection Commission (EPC) as part of EPC #4-2023. A February 22, 2023 report was received from the EPC and a decision by the EPC on the application is forthcoming. He also noted that Professional Engineer Joseph Canas of Tighe & Bond submitted comments dated February 9, 2023 and that those comments are included as part of the record.

Professional Engineer, Craig Flaherty, of Redniss & Mead, the applicant's representative, said that the applicant is proposing to add a two-story addition to the south face of the detached garage with the second story extending partially over the existing garage. A new second-story connection is proposed between the garage and residence. A 30'x50' area adjacent to the front of the house will be leveled to provide a usable terraced area close to the home. A new wall is proposed starting at the northern face of the garage and terminating in line with the south face of the house. The grade will be raised up to 29 inches along the wall and feathered to meet existing grade at the face of the house. The proposed work requires approximately 70 cubic yards of imported fill.

The proposed improvements result in 5,044 square feet of impervious coverage on the site, an increase of 232 square feet from existing conditions. The proposed improvements result in a minor increase in impervious coverage. Water quality is provided to runoff originating from a portion of the garage via overland flow. The roof leaders are directed to a splash pad on the downhill side of the wall. Runoff from the improvements will flow over 80 feet of moderately sloped lawn and through the proposed mitigation plantings before reaching the watercourse. Existing drainage patterns are maintained. The applicant has requested a waiver from stormwater management requirements of Section 880, since the property is in the lower 1/3 of the watershed within 600 feet of Scott's Cove and the Long Island Sound. Mr. Flaherty responded to comments on the application by Joe Canas of Tighe & Bond

The proposed improvements will be located partially within FEMA Zone AE with a Base Flood Elevation (BFE) of 13'. The design is compliant with Town and FEMA requirements. All other existing building and site improvements are located within Zone X. Mr. Flaherty noted that a Conditional Letter of Map Revision (CLOMR-F) will likely be pursued by the property owner. The proposed fill and site grading located in the AE Zone is limited to what is necessary and reasonable. There is no use of fill for the structural support of the addition. The site grading has been designed to have no adverse impact with respect to flooding to the site or to adjacent properties.

Mr. Chris LaVigna, of LaVigna Associates Architecture, the applicant's architect, presented the architectural details of the proposal.

There being no additional comments from Commission members and none from the public, Mr. Balgach made a motion to close the public hearing on this matter. That motion was seconded by Mr. Nedder, and was approved by a vote of 4-0.

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Property Location: The 0.56+/- acre subject property is located on the south side of Crimmins Road approximately 350 feet east of its intersection with Dickinson Road.

Zone: R-1/3

Date of Public Hearing: February 14, 2023

Deliberations Held: February 28, 2023

Time and Place: 7:30 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 2 & 9, 2023

Newspaper: Darien Times

Date of Action: February 28, 2023

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
March 9, 2023

Newspaper: Darien Times

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

- the proposed use and activities must comply with all applicable provisions of Sections 406 and 820 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 property owner 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/expand an elevated wood deck and related features in a special flood hazard area; and to perform related site development activities within a regulated area. The site is currently served by public water and sewer.
2. There are inland wetlands located on the property. The Darien Environmental Protection Commission (EPC) granted an approval for this project on January 4, 2023 as part of EPC #30-2022. That approval is hereby incorporated by reference.

STORMWATER MANAGEMENT

3. Existing drainage patterns for the site are to be maintained in the post-development condition.
4. Assistant Director of Public Works Darren Oustafine sent comments on the subject application, dated December 8, 2022. In his comments, he notes that the area below the deck will be pervious,

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and the project is in the lower 1/3 of the Stony Brook watershed. Those comments are included as part of the record.

PROPOSED WORK WITHIN THE FLOOD ZONE

5. The proposed improvements have been designed to comply with Section 825 of the Darien Zoning Regulations and the requirements for flood protection for improvements located within the FEMA flood zone.
6. 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 for the area for which it is proposed.
7. The proposed work, as to be revised herein, will not result in an increase of flood heights and the proposal, as to be revised, meets or exceeds Section 825 of the Darien Zoning Regulations.
8. 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.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #435 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the following plans submitted to and reviewed by the Commission:

SURVEY

- Improvement Location Survey, 23 Crimmins Road, Darien, Prepared for Sean Rogers by Land Surveying Services, LLC, dated August 24, 2021 and last revised 12-21-2022.

ARCHITECTURAL PLANS

Plans generally titled 'Rogers Residence, 23 Crimmins Road, Darien' Prepared by CD Design, dated October 21, 2022, last revised November 20, 2022.

- Sheet A-1, Proposed Deck Addition;
- Sheet A-2, Proposed Deck Elevations.

The Architectural plans have been stamped by a Professional Engineer registered in the State of Connecticut, certifying that the deck and related features have been designed in accordance with Section 820 of the Darien Zoning Regulations and are capable of withstanding the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

SEDIMENT & EROSION CONTROLS

- B. During construction, the applicant shall install the proposed erosion controls as shown on the plans noted in Condition 'A', above, and also utilize any sediment and erosion control 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 construction and until the area

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has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to the commencement of work and immediately 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.

- C. No rock crushing or similar processing of earth materials has been requested and no such activity is authorized, approved, or permitted. If such activity is desired, prior review and action by the Planning & Zoning Commission shall be required.

STORMWATER MANAGEMENT

- D. During all site work the applicant shall properly manage stormwater runoff to avoid negative impacts to neighbors and/or the street.
- E. Due to the size of the project, and the fact that no new impervious surface is being created, the Commission hereby waives the requirement for stormwater management under Section 880 of the Zoning Regulations.

PERMITS REQUIRED

- F. The granting of this Permit does not relieve the applicant of the responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for Zoning and Building Permits for the proposed improvements.

PRIOR TO ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE

- G. Prior to the request for the Certificate of Zoning Compliance for the proposed improvements, the applicant shall submit the following:
 - 1. A final "as built" map and/or other evidence that all improvements have been properly completed in accordance with the approved plans, and comply with zoning setback and flood zone requirements.
 - 2. Submittal of an Elevation Certificate.
 - 3. The Commission hereby requires that the as-built survey/drawing prepared by a licensed land surveyor shall show all utilities or buried infrastructure installed as part of this land use proposal. The as-built survey/drawing shall include measurements from known, permanent, and visible surface features so that buried infrastructure can be located in the field in the future.
 - 4. Any other conditions included in the Environmental Protection Commission (EPC) January 4, 2023 approval.
- H. 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.
- I. This permit shall be subject to the provisions of Sections 829(f) of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 28, 2024). This time limit may be extended as per Sections 829(f) of the Regulations.

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All provisions and details of the plans, as approved, 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.

At about 8:30 p.m. Vice Chairman Reilly read the following agenda item:

Amendment of Business Site Plan #202-B/Special Permit, Mobil, 211 Boston Post Road.
Installation of shed in existing dumpster enclosure area.

Mr. Ginsberg provided the Commission with an overview of the application.

Mr. Stan Gorski, of Tuff Shed, the applicant's representative, summarized the proposal, noting the plan was to install a new 12' x 14' shed on the property, within the enclosed Dumpster area directly adjacent to the northeast side of the building, for the storage of goods related to the onsite convenience store. It was noted that the matter went before the Architectural Review Board (ARB). The ARB recommended rotating the shed 90 degrees and changing the color to gray. The ARB issued a positive report.

Commission members did not have any questions or concerns regarding the request. Mr. Nedder made a motion to approve the request. That motion was seconded by Ms. Barsanti and approved by a vote of 4-0.

At about 8:35 p.m. Vice Chairman Reilly read the following agenda item:

Deliberations ONLY regarding any public hearing(s) closed on February 28, 2023.
Coastal Site Plan Review #359-A, Flood Damage Prevention Application #413-A, Land Filling & Regrading Application #511-A, William & Elizabeth Jones, 2 Contentment Island Road.

Mr. Balgach suggested that a site monitor be required to oversee the work on the property. The Commission agreed that the stormwater maintenance plan should include the maintenance of the drainage pipe on the southern portion of the property that drains water from Contentment Island Road to Scott's Cove. It was noted that the catch basin within the Contentment Island Road is under the jurisdiction of the Tokeneke Association.

The Commission directed staff to draft a resolution for their consideration at an upcoming meeting.

Flood Damage Prevention Application #437, Land Filling & Regrading Application #545, Geddes & Julia Johnson, 3 Canoe Trail.

The Commission had no issue with the application as proposed and directed staff to draft a resolution for their consideration at an upcoming meeting.

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At about 8:46 p.m. Vice Chairman Reilly read the following agenda item:

Approval of Minutes

February 14, 2023

Ms. Barsanti made a motion to approve the February 14, 2023 meeting minutes as written. That motion was seconded by Mr. Nedder, and approved by a vote of 4-0.

It was noted that the next upcoming meetings have been scheduled for March 7 and 14.

There being no other business, Mr. Nedder made a motion to adjourn the meeting. That motion was seconded by Mr. Balgach, and approved by a vote of 4-0. The meeting was adjourned at 8:47 p.m.

Respectfully-submitted,



Fred W. Doneit, AICP, GISP
Assistant Director

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