

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

Place: Room 119, Darien Town Hall

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Olvany, Reilly, Barsanti, Balgach, Nedder

STAFF ATTENDING: Ginsberg, Doneit

Recorder: Karen Manz

Channel 79

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

PUBLIC HEARING

Proposed Amendments of Zoning Regulations (COZR #1-2023), Site Plan Application #310-A, Special Permit Application #324-A, Flood Damage Prevention Application #425-A, 7 Sedgewick Avenue, LLC, 7 Sedgewick Avenue. Proposal to amend Section 726(13) of the Zoning Regulations to increase the maximum floor area of dwelling units in the Central Business District (CBD) from 1,000 square feet to 2,000 square feet; Proposal to amend Section 726, Note (f) of the Zoning Regulations to allow third floor dwelling units as incentive units under the Inclusionary Zoning Regulations; Proposal to raze the existing bank building on the site, convert and redevelop the property as multi-family residential, and to perform related site development activities within a regulated area, including regrading of the property, installation of landscaping, lighting, and stormwater management. The applicant proposes to construct a multi-family apartment building with a total of 22 one- and two-bedroom apartments on the two floors above the parking level, including 4 deed restricted affordable units. A total of 40 surface level parking spaces will be created under the building. The 0.49+/- acre subject property is located at the southwest corner formed by the intersection of Sedgewick Avenue and Old King's Highway North, and is shown on Assessor's Map #71 as Lots #15 and #16 in the Central Business District (CBD). The full text of the proposed zoning regulation amendment is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection, and online at darienct.viewpointcloud.com.

Mr. Ginsberg said that a similar application was submitted to the Commission in 2022. The application was reviewed by the Architectural Review Board at that time and that the Planning & Zoning Commission application was subsequently withdrawn by the applicant. He said that the current application is currently under review by the Sewer Commission.

Mr. Doneit provided the Commission with an overview of the application. He said that the application was a two-part application – a site plan/special permit and a proposed amendment to the zoning regulations to allow the development as proposed. He said that the application was reviewed by Joe Canas of Tighe & Bond, Greg Del Rio, of Hardesty & Hanover, the Darien Health Department, Rick Talamelli of Planning & Zoning from a flood perspective, and CT DEEP.

Attorney Robert Maslan, the applicant's representative, introduced his team, and summarized the proposal. He reviewed the requested approvals. He said that the subject property is a former location

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of a Bank of America branch and that the building is not compliant with flood zone regulations. The proposal is to raze the existing building on the site and to construct a two-story apartment building with 38 parking spaces on the surface level below finished floors. He said that the largest proposed unit is about 1,600 square feet, and thus, he is willing to modify the proposed zoning regulation amendment, which references a maximum size of 2,000 square feet. Four 1-bedroom and seven 2-bedroom apartments are proposed on each level, with a rental office on the first level and a gym on the second level. Four deed restricted affordable units are proposed. He said that roughly 5,500 square feet of outside amenity space on roof is proposed with a pool and active area for private use by residents. Solar panels are also proposed on the roof. The new structure has been designed to be flood compliant and includes a new stormwater management system. He presented photographs of the site and surrounding areas, including of various other three-story buildings in Darien. He presented surveys for the property.

Professional Engineer, Curt Lowenstein, of LANDTECH, the applicant's civil engineer, said that the engineered stormwater management system was designed based on the fresh meadow approach and provides for a zero increase in the rate of runoff from the site for the 2 through 50 year storm events. Infiltration included in the stormwater management system provides for water quality and groundwater recharge.

Mr. Lowenstein reviewed the proposal's compliance with FEMA regulations and the Town's Flood Damage Prevention regulations. He said that the enclosed wall volume of the proposed building within the flood zone is significantly less than the noncompliant volume of the existing building. Fill is not being placed on the site to raise the grades and the proposed site elevations are substantially the same as existing. The open garage allows unrestricted flow of flood waters. The development will not result in increase in the base flood elevation, as they are providing more flood storage than currently exists. He said that the comments received from Mr. Canas are addressable.

Professional Engineer, Neil Olinski, of SLR Consulting, the applicant's traffic engineer, said that compared to the bank branch on this property, the number of vehicle trips generated by the proposed residential development during peak hours will be reduced, and that no comparative traffic impact is associated with this development. He said that the site layout includes a new, one-way entrance driveway from Old King's Highway North to be located as far south along the property frontage as possible. The northbound-approach stop-bar on Old King's Highway North at the intersection with Sedgwick Avenue will be shifted north to improve sight lines and to provide more distance from the proposed site entrance driveway.

Mr. Olinski said that the site layout reduces curb cuts on Sedgwick Avenue from two driveways to one, exit-only driveway. The existing site curb cut nearest to the intersection with Old King's Highway North will be closed. The addition of a striped shoulder line on Sedgwick Avenue along the site frontage improves sight lines from exit driveway, particularly looking west. A new stop-sign and stop-bar at the southbound approach of Old Kings Highway North to Sedgwick Avenue will make this intersection function as a more typical all-way-stop and so that the right turn from Old King's Highway North to Sedgwick Avenue is slower. A new crosswalk across Sedgwick Avenue west of Old King's Highway North will be installed to improve walkability. He said that parking fully complies with the Regulations. Chairman Olvany noted that loading and deliveries are not accommodated on-site. Mr. Bulgach asked about moving vehicles parked under the building during a flood event.

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Mr. Matt Popp, of Environmental Land Solutions, the applicant's landscape architect, reviewed the landscape and lighting plans for the site. He said the majority of landscaping would consist of low lying foundation plantings, with some taller trees interspersed around the site. He said that about four existing trees would be removed to accommodate the development. He said that there would be seven or eight wall down mounted light producing a low level of light. Chairman Olvany asked that a survey be provided showing the trees that would be removed from the property. It was noted that as a corner lot, the minimum yards are zero or four feet along all of the boundaries that are not street lines and there is no minimum front yard. As the site does not abut any residential zones, no landscape buffers are required under Section 944 of the Regulations. The Commission asked that the previous report 2022 from the Architectural Review Board (ARB) be included as part of the record.

Mr. Marc Andre, the applicant's architect, presented the architectural plans for the site. He said that in 2022 the application team met with the ARB several times; however, a positive report for the proposal from that Board had not been procured. He reviewed access points to the building and garage areas. He said that the elevator in the lobby area and within the flood zone, has been designed to be flood compliant. He reviewed the location of the trash/recycling enclosures. Clearance for vehicles, including emergency vehicles, under the garage was discussed. Clearance heights will be discussed in further detail at the next meeting. Mailboxes are located exterior to the building at the main entrance on Sedgwick Avenue. Packages would be delivered inside the lobby area, in the same area. Commission members asked Mr. Ginsberg to check with the Darien Health Department regarding trash storage and pickup standards if any. The locations of the leasing office and gym on the second and third levels were shown by Mr. Andre. Mr. Andre then presented the details of the roof area. He said about one-third of the roof area would be dedicated to amenity space, including seating, barbeque areas, and a small pool area. Mr. Ginsberg was asked to consult with the Fire Marshal regarding any restrictions for a fire pit and/or grilling on the roof. Sound levels from activities on the roof were discussed. The remainder of the roof area would be used for mechanical equipment and installation of solar panels. Ingress/egress from the roof area was discussed. He said that it is compliant with fire code. Safety was discussed relative to the height of the parapet around the roof area. The height of the parapet would be a minimum of 42-inches above the finished floor area. Mr. Olvany asked about the proposed heights of the landscaping on the roof. Mr. Balgach asked about the lighting on the roof.

At about 9:30 p.m., Attorney Maslan said the proposal is to amend Section 726.13 to increase the maximum floor area of residential units in the Central Business District from 1,000 square feet to 2,000 square feet. He said that they are also asking for note (d) of the Area and Bulk Requirements to be amended as such:

Section 726. Area and Bulk Requirements:

"d. If more than two dwelling units, then at least 30% of the total number of units shall be limited to one bed-room. In mixed commercial and residential developments, one additional off-street parking space per bedroom shall be required. Dwelling units located on the third floor of a building shall be deemed "incentive units" for purposes of Section 585, provided that the use of second floor shall be limited to dwelling units."

He said that the additional proposed language (underlined) clarifies that the 1-parking space per bedroom requirement shall apply only to mixed use developments, and provides that dwelling units on the third level be deemed incentive units. He described the proposal's consistency with the 2016 Town Plan of Conservation and Development, and referred to specific pages within that document.

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Attorney Maslan said that to date, the development team has received a peer review letter dated March 24, 2023 prepared by Professional Engineer Joe Canas, of Tighe & Bond. Two traffic peer review letters prepared by Professional Engineer, Greg Del Rio, of Hardesty & Hanover, one dated March 24, 2023 and one dated March 28, 2023 that specifically addresses Traffic Authority (Police Department) comments. He said that the project engineers and architect are preparing point-by-point responses, which will be submitted to the Commission when complete.

Attorney Maslan, in response to concerns regarding the capacity of the sewer system, said that the applicant has met with the Darien Sewer Commission regarding the development. The project engineer has prepared a letter report addressing the capacity of the municipal sewer system and the Sewer Commission has referred the letter report to the Town's sewer engineers. He said that review is pending.

The Commission's peer review Professional Engineer, Greg Del Rio, of Hardesty & Hanover, reviewed his March 24 and March 28 letters to the Commission, largely agreeing with the applicant's traffic engineer, Mr. Olinski. He said that the proposal will generate less traffic than the previous drive-in bank and will reduce traffic impacts on the adjacent roadways and intersections. He said that the proposed exit driveway will be an improvement over the existing exit driveway in terms of sight lines and safety and that the recommended improvements by the applicant will improve safety and pedestrian activity in the area.

Mr. Del Rio said that the adjacent Mechanic Street public parking lot could potentially be used for overflow parking, if needed. He also said that the north side of Sedgwick Avenue, across the street from the subject property has a large enough right-of-way to accommodate delivery vehicles. It was noted that further consideration would need to be given to operation of trash/recycling hauling, a potential school bus stop location, and a bike locker room and/or bike racks.

At about 10:15 p.m., Chairman Olvany then opened the hearing to public comment.

Ms. Lisa Savage, of 26 Sedgwick Village Lane, spoke of concerns regarding a perceived deficiency in public notice of the hearing, safety issues regarding traffic and activities on the rooftop as well as hours of construction.

Ms. Susan Marcello, of 10 Sedgwick Village Lane, spoke of safety concerns regarding increased vehicular traffic, including truck traffic.

Mr. Rolf Obin, of 9 Archer Lane, spoke of concerns regarding potential capacity issues with the sewer system and overburdening of the town's infrastructure.

Mr. Jack Savage, of 26 Sedgwick Lane, spoke of concerns regarding privacy and his concerns of a potential reduction in property values.

The Commission then continued the public hearing on the matter to May 2, 2023, in Room 206 of Darien Town Hall.

At about 10:29 p.m., Chairman Olvany read the following agenda item:

GENERAL MEETING

Deliberations and possible decision on the following:

Coastal Site Plan Review #370-A, Flood Damage Prevention Application #432-A, Land Filling & Regrading Application #532-A, Christopher & Lisa Hughes, 25 Harbor Road. Proposal to raze the existing residence to the foundation and to construct a new single-family dwelling with additions atop the existing foundation, construction of elevated patio and hardscape areas at the rear of the residence, installation of plunge pool, including construction of a series of terraced retaining walls, expand the driveway area; and to perform related site development activities within regulated areas, including regrading of the property, and installation of stormwater management. The 1.0+/- acre subject property is located on the east side of Harbor Road approximately 600 feet south of its intersection with Ring's End Road, and is shown on Assessor's Map #51 as Lot #9 in the R-1 Zone.

Commission members reviewed the draft resolution. Mr. Reilly made a motion to adopt the resolution as written. That motion was seconded by Mr. Balgach and approved by a vote of 5-0. The Adopted Resolution reads as follows:

PLANNING AND ZONING COMMISSION ADOPTED RESOLUTION March 28, 2023

Application Number: Coastal Site Plan Review #370-A
Flood Damage Prevention Application #432-A
Land Filling & Regrading Application #532-A

Street Addresses: 25 Harbor Road
Assessor's Map #51 Lot #9

Name and Address of
Property Owners and Applicants: Christopher & Lisa Hughes
25 Harbor Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Harry Rocheville, P.E.
McChord Engineering Associates, Inc.
1 Grumman Hill Road
Wilton, CT 06897

Activities Being Applied For: Proposal to construct a new single-family dwelling with additions atop the existing foundation, construction of elevated patio and hardscape areas at the rear of the residence, installation of plunge pool, including construction of a series of terraced retaining walls,

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expand the driveway area; and to perform related site development activities within regulated areas, including regrading of the property, and installation of stormwater management.

Property Location: The 1.0+/- acre subject property is located on the east side of Harbor Road approximately 600 feet south of its intersection with Ring's End Road.

Zone: R-1

Date of Public Hearing: March 14, 2023

Deliberations Held: March 14, 2023

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

Publication of Hearing Notices

Dates: March 2 & 9, 2023

Newspaper: Darien Times

Date of Action: March 28, 2023

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 6, 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 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:

1. The proposal is to construct a new single-family dwelling with additions atop the existing foundation, construction of elevated patio and hardscape areas at the rear of the residence, installation of plunge pool, including construction of a series of terraced retaining walls, expand the driveway area; and to perform related site development activities within regulated areas, including regrading of the property, and installation of stormwater management. The subject property is served by public water and an on-site septic system. As part of this project, the replacement residence will be connected to the municipal sanitary sewer system. The previous residence that was on the site was razed and construction of the new dwelling is underway.

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2. The Commission notes that this application is similar to a prior application reviewed and approved by the Commission on September 6, 2022 (Coastal Site Plan #370, Flood Damage Prevention Application #432, Land Filling & Regrading Application #532). Changes from the previously approved plans include: modifications to the driveway configuration, the stormwater management system, retaining walls, and the landscape plan. The house plans and construction remain unchanged.
3. Julia Kendzierski of the State of Connecticut DEEP submitted comments on the application dated February 28, 2023. Those comments are included as part of the record on the matter.

STORMWATER MANAGEMENT

4. An Engineering Summary prepared by McChord Engineering Associates, Inc., dated February 16, 2023 was submitted for the record as part of the application. The application was reviewed by peer review engineer Joe Canas of Tighe & Bond, and his comments were noted in a two-page memorandum dated March 1, 2023. Those comments include a number of requirements that the applicant's representative shall comply with.
5. The subject property is located within the lower 1/3 of the Goodwives River watershed. The Commission finds that there is no requirement or need to detain water and manage stormwater quantity, because of the property's proximity to the Long Island Sound.
6. The proposed stormwater management system was designed with an emphasis on stormwater quality since the subject property is located in a coastal area and drains directly to tidal waters. The stormwater management system has been sized to accommodate the first 1 inch of runoff from all of the impervious surfaces that drain to it.
7. The proposed stormwater management system maintains existing drainage patterns on the site. Rooftop runoff from the new residence will be captured by roof leaders and conveyed to an underground detention system consisting of six recharger units. Runoff from the garage court and front walkway will be captured by a driveway drain and conveyed to the underground detention system. During typical storm events, runoff will infiltrate into the underlying soils. An overflow pipe that will discharge to the previously approved footing drain rip rap outlet is proposed to be installed to provide relief during extreme storm events.
8. Runoff from the remainder of the property will continue to drain east towards the Darien River/Darien Harbor consistent with existing conditions. Soil percolation testing was conducted on the property in the area of the proposed underground detention system and confirmed suitable infiltration rates.

PROPOSED WORK WITHIN THE FLOOD ZONE

9. A small portion of the proposed improvements are located within the FEMA 100 year AE flood zone with a Base Flood Elevation (BFE) of 14.0'. The work within the floodplain consists of a minimal amount of filling for the underground detention system installation and a minor amount of regrading. The reduction of flood storage capacity that will result from the proposed filling is small in comparison to the total flood storage capacity of the Darien River/Darien Harbor and the Long Island Sound. No part of the existing or proposed residence is within the flood zone, and no retaining wall is located below elevation 16.0. The first floor of the proposed residence is above elevation 27.0'.

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10. 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.
11. The Commission believes that the proposed activities as shown on the site 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.

PROPOSED WORK WITHIN CAM AREA

12. The applicant has proposed a detailed planting plan, prepared by Jennifer Anderson Design & Development dated 2/16/2023, which the Commission reviewed at the public hearing, and considers to be an integral component of this approval. This Plan adds salt tolerant plantings near the Darien Harbor, and includes an area of seed mix between the lowest retaining wall and Darien Harbor. This Plan reflects the fact that as part of the prior application, a number of trees were removed, that were proposed to be preserved.
13. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program and will not result in any significant, long-term negative impacts on coastal resources.
14. The Commission finds that the proposed activity as shown on the site development plan is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
15. The Commission finds that the potential adverse impacts of the proposed activity on coastal resources are acceptable.

LAND FILLING & REGRADING SPECIAL PERMIT FINDINGS

16. Erosion controls including silt fencing and haybales will be installed to protect the Darien River during construction of improvements on the site. There will be no fill added for the erosion control installation and they will be removed once the site has been stabilized post-construction.
17. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
18. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #370-A, Flood Damage Prevention Application #432-A and Land Filling & Regrading Application #532-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Regrading, construction and other site development activity shall be in accordance with the plans submitted to and reviewed by the Commission:

ENGINEERING PLAN

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- Sheet SE1, Site Development Plan, 25 Harbor Road, Darien, Prepared for The Estate of Peter A. Goodhue by McChord Engineering Associates, Inc., dated June 16, 2022, last revised February 16, 2023.

These plans shall be modified to reflect the comments in Joe Canas' March 1, 2023 memo. This includes, but is not limited to, the submittal of a Stormwater Management and Operations Plan. A small patio area is proposed near Darien Harbor. That patio shall be at least twenty feet landward from the Coastal Jurisdiction Line and at least ten feet from the side property line. Revised plans shall call out those dimensions. The underground propane tank shall be at least ten feet from the side property line.

LANDSCAPE PLANS

- Drawings 1 & 2, Hughes Residence, Hillside Planting Plan, 25 Harbor Road, Darien, Prepared by Jennifer Anderson Design & Development, dated February 16, 2023.

The Planning & Zoning Commission is requiring that all of the plantings shown on the plan be installed prior to the issuance of a Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy for the residence. This may require the owner and landscape designer to coordinate the installation of the plantings in fall of 2023, which may be months before the house is complete.

A survey from William Seymour & Associates was included in the prior application. A survey shall be submitted for the record in this matter. It shall include a zoning chart including the size of the proposed house.

- B. Due to the nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted 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 maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized.
- D. As noted in Section 856 of the Darien Zoning Regulations, no processing, sorting, crushing, mixing, fabrication of rock or gravel or construction debris or other similar activities shall be engaged in or be operated on the site.

STORMWATER MANAGEMENT

- E. The applicant must make sure that at all times during the redevelopment of the site, the stormwater runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and result in the restabilization of all disturbed areas.
- F. The granting of this approval does not relieve the applicant of the 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 amending the existing Zoning & Building Permit on file for modifications to the retaining wall construction.

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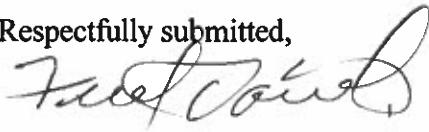
- G. Prior to the issuance of a Certificate of Occupancy (CO) for the new house, the applicant shall submit the following to demonstrate compliance with the approved plans and the flood damage prevention regulations:
1. Verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management system have been completed in compliance with the approved plans referred to in Condition 'A', above;
 2. Verification of the installed plantings by the landscape designer. This shall include both a written certification and photographs.
 3. A final "as-built" survey prepared by a licensed land surveyor and other evidence that all work has been properly completed in accordance with the approved plans, and complies with zoning setback, building height, building coverage requirements, and flood regulations. The as-built survey shall show all utilities or buried infrastructure installed as part of this application. The as-built survey shall include measurements from known, permanent, and visible surface features so that buried infrastructure can be located in the field in the future.
- 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 815, 829f, and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (March 28, 2024). This may be extended as per Sections 815, 829f, and 858.

All provisions and details of the plan, as modified 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 form shall be filed in the Darien Land Records within 60 days of this approval AND prior to the issuance of a Zoning and Building Permit.

It was noted that the next upcoming meetings have been scheduled for April 4 and 18.

There being no other business, Mr. Nedder made a motion to adjourn the meeting. That motion was seconded by Ms. Barsanti, and approved by a vote of 5-0. The meeting was adjourned at 10:34 p.m.

Respectfully submitted,



Fred W. Doneit, AICP, GISP
Assistant Director