

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
June 13, 2023**

Place: Room 206, Darien Town Hall

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Olvany (left at 9:00 p.m.), Reilly, Balgach, Nedder, Barsanti

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

Continuation of Public Hearing regarding Coastal Site Plan Review #372, Flood Damage Prevention Application #436, Land Filling & Regrading Application #544, Mitchell & Kerry Ross, 17 Nickerson Lane. Proposal to construct a new 6-bedroom single-family dwelling on a now vacant lot, construction of a new driveway and parking court, patio and terrace areas, and a pool; and to perform related site development activities, including regrading of the property and installation of stormwater management. The project will establish new connections to public water and sewer. The 0.98+/- acre subject property is located on the southwest side of Nickerson Lane approximately 750 feet west of its intersection with Nearwater Lane, and is shown on Assessor's Map #52 as Lot #9; R-1 Residential Zone. *HEARING OPENED 5/23/2023.*

Chairman Olvany noted that this item will not be heard tonight. Mr. Ginsberg explained that the public hearing will be continued to a special meeting on Tuesday, June 20, 2023 at 7:30 p.m. in room 119 of Darien Town Hall.

Chairman Olvany then read the next agenda item:

Special Permit Application #329-A / Site Plan, Town of Darien, 40 & 46 Great Island. Proposal to rent the stables and associated equestrian facilities on Great Island to an outside operator with the specialized expertise necessary to run a full-service show stable for programmed active recreational use with specific restrictions and limits. These indoor and outdoor facilities include an 18-stall granite stable and indoor heated riding arena, an outdoor sand dressage ring, and a half-size polo field as well as numerous paddocks and riding trails that comprise the facility. The operator of the facilities would be a full-service show stable offering full boarding and training of up to 23 horses, a riding lesson program, an animal therapy program, and a summer children's program. The 60.92+/- acre subject property is located on the east side of Goodwives River Road and Long Neck Point Road and consists of a total of three separate lots, identified as Map #58 Lot #1-A (13.5+/- acres); Map #58 Lot #1 (45.94+/- acres); and Map #58 Lot #1AA (1.48+/- acres) (accessway) in the R-1 Residential Zone. The subject property is accessible via a causeway at the southeastern terminus of Rings End Road from Goodwives River Road.

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Ms. Barsanti said that she is recused on this application, and she left the room.

Mr. Ginsberg then explained the proposal. He noted some of the recent submittals which have been made regarding this application, including, but not limited to those from Solli Engineering, and Attorney Mark Santagana. Mr. Ginsberg said that Attorney Robert Maslan was hired by the prior owners, the Steinkraus', in response to the Cease and Desist Order issued by the Zoning Enforcement Officer. Mr. Maslan's 44 page document gave background regarding history of the property. Mr. Ginsberg said that Town Historian Marian Castell has also submitted a letter for the record.

Town Administrator Kathleen Buch said that the request is for a very limited use of the stable building. It is a small program, which will not generate a lot of traffic, and there would be a limited amount of participants/people using the property for programs. All use will be by appointment only, and it will be controlled and staggered. A similar use has existed on-site for many years. Mr. Olvany said that the narrative includes a request for two years. Mr. Ginsberg said that the applicant is requesting this limited time period. Mr. Olvany and Ms. Buch acknowledged that they would need to return to the Commission for any use after that time. This operator has been on-site since 2021, and Ms. Buch said that the Town purchased the property on May 5, 2023. Mr. Olvany noted that a survey of the property was submitted for the record as well as the 1980 subdivision map. Mr. Olvany noted that the subdivision map shows the five properties across Long Neck Point Road from the property. He said that the Town does lease out other Town properties—two examples would be the Darien Nature Center within Cherry Lawn Park, and the Darien Boat Club at Pear Tree Point Beach. Ms. Buch agreed that the Town does hire outside firms, agencies and companies to run program offerings. Examples include soccer programs; the concession stand at the beach run by Uncle's Deli; kayak rentals at Weed Beach; and the convenience coffee stand/concession at the two Train Stations. Mr. Olvany acknowledged the 2023 letter from Town Historian Marian Castell. He noted that comments were also received from Health Director David Knauf. Mr. Ginsberg said that spectators are not expected at the stable, since these are only for lessons, and only for a limited duration. Mr. Ginsberg mentioned that Attorney Santagana has submitted a letter which addresses Mr. Knauf's questions regarding manure management. Mr. Ginsberg then confirmed that Fire Marshal Robert Buch submitted comments for the record both in 2022, and earlier in the day today. Mr. Olvany said that a staff waiver of the traffic study was done in May 2023. He also noted the memo from earlier today regarding waivers of stormwater management requirements. Mr. Ginsberg confirmed that no new construction is proposed as part of this application. Mr. Olvany stated that there are a number of apartments now within the stable building.

Mr. Doneit showed the survey of the entire property, on which he had shown in various colors the existing flood lines and critical Coastal Area Management area. He confirmed that the stable is not within the flood zone, and it is more than 100 feet from Mean High Water.

Mr. Reilly then questioned the Town's belief that the proposed use complies with Section 404 of the Darien Zoning Regulations. Ms. Buch responded that the Town of Darien is not a profit making entity. Mr. Reilly stated that the proposed tenant/operator is a profit-making entity. Ms. Buch responded that this is similar to other situations where the Town hires an entity to provide a service. Mr. Reilly confirmed that the Town would be getting rent from the entity running the program. Mr. Balgach confirmed that there is no proposed profit-sharing agreement between the Town and the stable operator. Mr. Reilly noted that there is now a Cease and Desist Order on the stable use. Mr.

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Olvany said that prior to use by Serenity Stables, Soundview Stables did provide services. Mr. Ginsberg presented background regarding the two letters from the Planning & Zoning Department sent in 1999. He said that they spoke to Ms. McKinney, the operator at the time. Mr. Olvany read aloud from a portion of one of the letters. Mr. Reilly said that based upon the information submitted, about one half of the proposed users would be Darien residents.

At about 8:07 p.m., Attorney Mark Santagana of Cacace Tusch and Santagana explained that he was present on behalf of Serenity Stables. Mr. Santagana said that the Commission cannot ignore the history of the property. He then referred to Attorney Maslan's letter, noting that the use of the property is not new. The building was constructed in 1913, and there is evidence that outside lessons were given as far back as 1925, prior to the adoption of zoning regulations by the Town. Prior to the current use by Serenity Stables, a prior tenant, Soundview Stables, ran a similar program of boarding horses; training; and providing lessons. He said that use of the stable building has been occurring for over 100 years. Mr. Santagana said that the use will be by appointment only and open to the public to make appointments. The animal therapy program will also be by appointment only. There will only be up to three hours of riding lessons daily. Ms. Ruth Nicodermus of Serenity Stables said that all of the horses are insured. The capacity of the stable is 23, although there are not always 23 horses there. Mr. Santagana said that he had submitted a letter dated June 13, 2023 regarding horse manure was, which noted that it is removed weekly. The existing Dumpster that they use behind the stable is not in the flood zone.

Mr. Balgach confirmed that the Dumpster is not in the flood zone. He noted that this is still public use, and no membership is required for lessons.

Mr. Reilly asked if Serenity Stables is a "for profit" business. Mr. Santagana responded that they are not a 501c3, although the animal therapy portion of the business is a 501c3.

At about 8:37 p.m., Attorney John Knuff said that he was present on behalf of the Great Island Property Owners Association, who own adjacent property. He said that he represents the Association, and the Trustees, but not the individual members. He said that access is reliant upon an existing easement, and said that his clients can enforce that. He noted that it is not for the Commission to resolve that issue. Mr. Olvany then noted the existing signs at the entrance that say "no public access".

Attorney Knuff then referenced a number of items in the record—a May 16, 2023 letter; a June 9, 2023 letter; two memos from Solli Engineering; a memo regarding prior applications; the July 2022 International Investors v. Fairfield PZC case; and 2022 Darien Fire Marshal comments. Mr. Knuff said that a non-conforming use is considered abandoned after 60 days. He said that his client owns abutting parcels, and explained that the Great Island Property Owners Association owns the cul-de-sac, which is subject to an easement that precludes use by the general public. Mr. Olvany noted that there are now a number of signs at the cul-de-sac noting that public access is not allowed. Mr. Knuff claimed that the application is tortured. Mr. Ginsberg noted that an updated survey of the entire property has been submitted for the record.

Mr. Knuff claimed that changes need to be made, as the Cease and Desist Order seeks to be remedied. He said that this is an application that must stand on its own. He believed that this is becoming a private "for profit" use, and neither Section 404d or 404e applies. He said that this is a

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commercial use in a residential zone. It is not a permitted use. He said that this is a “for profit” entity, and the stable is not a municipal use. Submittals must be provided pursuant to Section 1003 and 1020 of the Zoning Regulations. He said that there is no parking plan. Mr. Knuff acknowledged that when the Zieglers owned the property, they did have invitees to the property. He said that Section 1004 requires compliance with Section 1003. He summarized by noting that this is not a use permitted in this zone. He explained that a representative from Solli Engineering is present to explain their submittals.

At about 8:55 p.m., Chairman Olvany said that he had to leave the meeting, and since there would not then be a quorum to proceed with the public hearing, it would have to be continued to another night. Mr. Ginsberg then announced that the public hearing on this matter would be continued to a special meeting on Tuesday, June 20, 2023 at 7:30 p.m. in room 119 of Darien Town Hall.

At about 9:00 p.m., Chairman Olvany left the meeting. Vice-Chairman Reilly then read the next agenda item, and Ms. Barsanti returned to the meeting.

GENERAL MEETING

Deliberations and possible decisions regarding:

Special Permit Application #261-A, 770 BPR Darien, LLC, Trizia Jewelry, 770 Boston Post Road.

Proposal to establish a new 220+/- square foot custom jewelry design studio in a portion of the first-floor space formerly occupied Allstate Insurance Company.

Vice Chairman Reilly noted that a draft resolution was in Commission members packets. Mr. Ginsberg summarized the resolution, noting that the request was for a simple tenant change from an Allstate insurance office to a small 220+/- square foot jewelry shop.

Ms. Barsanti made a motion to adopt the resolution as written. That motion was seconded by Mr. Balgach and unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 13, 2023**

Application Number: Special Permit Application #261-A

Street Address: 770 Boston Post Road
Assessor's Map #16 Lot #106

Name and Address of Applicant Monica Patricia Rospigliosi, owner
Trizia Jewelry Designs & Home Accessories
South Norwalk, CT

Name and Address of: Ling Zhao
Property Owner: 770 BPR Darien LLC

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770 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposal to establish a new 220+/- square foot custom jewelry design studio in a portion of the first-floor space formerly occupied Allstate Insurance Company.

Property Location: The 0.23+/- acre subject property is located on the south/east side of Boston Post Road approximately 100 feet north/east of its intersection with Sedgwick Avenue.

Zone: Designed Business (DB)

Date of Public Hearing: June 6, 2023

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

Publication of Hearing Notices
Dates: May 25 & June 1, 2023

Newspaper: Darien Times

Date of Action: June 13, 2023

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 23, 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 760, 905, 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 information, 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 proposal is to establish a new 220+/- square foot custom jewelry design studio in a portion of the first-floor space formerly occupied Allstate Insurance Company. The subject property is served by public water and sewer.
2. At the public hearing, Monica Patricia Rospigliosi, the applicant, referenced the submitted application narrative and described the business. It is mostly a "by appointment" business, with some open studio time.

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3. Hours of operation will vary, but open studio time will four days a week, generally 11:30am to 6 pm.

PARKING

4. The proposed use requires parking at a rate of 1 space for every 200 square feet. Since the applicant is leasing 220 square feet, two on-site parking spaces are required for this use. There are now 6-7 on-site parking spaces. The Commission also finds that the proposed capacity of the on-site parking meets the intent of the Regulations.

SPECIAL PERMIT FINDINGS

5. The location and size of the use, the nature and intensity 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, the size and height of the existing building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The location and size of the use and the nature and intensity of the proposed operations conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
8. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
9. 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.

NOW THEREFORE BE IT RESOLVED that Special Permit #261-A is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. The Commission hereby grants the proposed custom jewelry design studio as described in the application materials and at the public hearing on the matter. The plans that were submitted by the applicant are entitled:
Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Planning & Zoning Director, and/or Building Official. Any final floor plans and use of the space must be consistent with representations made within the submitted application materials and at the public hearing by the applicant, and this resolution.
- B. No external uses or storage is proposed or approved.
- C. Because of the size of the business, and the nature of the use, the Commission restricts the maximum hours of operation to 9am to 8pm seven days a week.

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- D. There is no new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- E. 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.
- F. The granting of this approval 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. A Zoning and Building Permit will be needed for the proposed interior tenant fit-out of the space. Any desired signage shall require review and a report by the Architectural Review Board (ARB).
- G. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved interior plan within one (1) year of this action (June 6, 2024). This may be extended as per Section 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final approved plans by the Chairman, or this approval shall become null and void. A Special Permit form shall be filed in the Darien Land Records prior to the issuance of a tenant fit-out Zoning/Building Permit or establishment of the business on-site, whichever comes first.

Vice-Chairman Reilly read the next agenda item, and noted that he is recused on this matter:

Land Filling, Excavation & Regrading Application #543-A, Michael Michaux, 142 Nearwater Lane. Proposal to excavate and regrade portions of the property to accommodate the construction of additions to the existing single-family residence and to create a level rear yard area, and to perform related site development activities.

Commission members acknowledged receipt of the draft resolution. Mr. Nedder made a motion to adopt the resolution as written. That motion was seconded by Ms. Barsanti, and approved by a vote of 3-0 with one abstention (Mr. Reilly). The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 13, 2023**

Application Number: Land Filling, Excavation & Regrading Application #543-A

Street Address: 142 Nearwater Lane
Assessor's Map #57 Lot #24

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Name and Address of Property Owner(s): Michael Michaux
142 Nearwater Lane
Darien, CT 06850

Name and Address of Applicant &:
Applicant's Representative: John F.X. Leydon, Jr., Esq.
Law Office of John F.X. Leydon, Jr., LLC
350 Bedford Street, Suite 403
Stamford, CT 06901

Activity Being Applied For: Proposal to excavate and regrade portions of the property to accommodate the construction of additions to the existing single-family residence and to create a level rear yard area, and to perform related site development activities.

Property Location: The 0.43+/- acre subject property is located on the east side of Nearwater Lane approximately 340 feet south of its intersection with Juniper Road.

Zone: R-1

Date of Public Hearing: May 30, 2023
Deliberations Held: June 6, 2023

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

Publication of Hearing Notices
Dates: May 18 & 25, 2023 Newspaper: Darien Times

Date of Action: June 13, 2023 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of
Action: June 22, 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 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 application materials, and the statements of the property owners' representative and engineer 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:

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1. This application is to excavate and regrade portions of the property to accommodate the construction of additions to the existing single-family residence and to create a level rear yard area, and to perform related site development activities. The residence is served by public water and sewer.
2. Public comment was received at the public hearings from neighbors with concerns relative to regrading of the property, construction activities carried out without proper permitting from the Town, and the proposed rooftop deck/patio. Those comments are included as part of the record on the matter.

STORMWATER MANAGEMENT

3. A Drainage Report, dated July 1, 2020 was prepared by Sound View Engineers & Land Surveyors, LLC and submitted for the record. In that report, Professional Engineer, Robert Zmarzlak concludes that the peak flows have been reduced for all required design storms.
4. The application was reviewed by peer review Professional Engineer Joe Canas of Tighe & Bond, and his comments were noted in a two-page memorandum dated May 16, 2023. Those comments are included as part of the record.

SPECIAL PERMIT FINDINGS

5. The Commission notes that approximately 340 cubic yards of material was chipped out / removed from the northeastern corner of the property to create a more level yard area, without proper permitting from the Planning & Zoning Commission. 39 cubic yards of material, with some additional landscaping is to be restored.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
7. 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 Land Filling, Excavation & Regrading Application #543-A is hereby approved 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:

SURVEY

- Sheet P-2, Zoning Location Survey, Prepared for Michael Michaux by Sound View Engineers & Land Surveyors, LLC, dated July 15, 2020, last revised May 26, 2023.

ENGINEERING PLANS

Plans generally entitled '142 Nearwater Lane, Darien', Prepared for Michael Michaux by Sound View Engineers & Land Surveyors, LLC:

- Sheet EX-3, Topographic Survey w/ Addition, Interim Conditions, dated April 14, 2023, last revised April 26, 2023;

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- Sheet SDP, Site Development Plan (Front & Rear Yard Grading Modifications), Proposed Conditions, dated April 14, 2023, last revised May 26, 2023;
- Sheet SDP, Site Development Plan, dated July 1, 2020, last revised May 26, 2023.

ARCHITECTURAL PLANS

Plans generally entitled 'Michaux Residence, 142 Nearwater Lane, Darien', Prepared by Rodger Braley Architect, dated April 20, 2023, unless otherwise noted:

- Sheet A101, Foundation Plan;
- Sheet A102, First Floor Plan;
- Sheet A103, Second Floor Plan;
- Sheet A104, Roof Plan;
- Sheets A105 and A106, Elevations;
- Sheet A112, Sections, dated May 24, 2023.

Prior to resuming work, the architectural plans shall be revised to remove any reference to the rooftop deck/patio. No more than 50 percent of the basement is to be finished (relative to the first floor). The exact percentage and calculations shall be called out on the architect's final, submitted plans.

- B. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. Due to the sensitive nature of the site, the Commission hereby requires, at the applicant's expense, a Site Monitor to visit the site at least once every two weeks until the filling and regrading of the site is complete and the site is stabilized. The Site Monitor shall be responsible for reporting on the accuracy and progress of the filling and regrading and the installation of stormwater management, allowing the Town and applicant the opportunity, if necessary, to address problems before and as they arise. Reports shall be filed at least every two weeks by e-mail with the Planning & Zoning Department. The applicant's engineer may be used as said Site Monitor.

SEDIMENT & EROSION CONTROLS

- D. 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 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.
- E. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Certificate of Occupancy for the new house.
- F. 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.

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- G. 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 agencies.
- H. Prior to the issuance of a Certificate of Occupancy (CO) for the new house, the Commission hereby requires:
1. An as-built survey prepared by a Connecticut Land Surveyor showing the new grades with one-foot contours, and the house relative to building height, setbacks and building coverage. The as-built shall also show all utilities or buried infrastructure installed as part of the proposal and other known underground conditions such as existing drainage pipes. A final calculation regarding the amount of finished space in the basement shall also be submitted.
 2. A letter/certification from a professional engineer that the installation of the proposed stormwater management system has been completed in accordance with the approved plans referred to in Condition 'A', above. Any changes or deviations from the approved plans shall be noted, including how the change complies with the conditions of approval, and how the intent of the proposed plan has been achieved.
- I. 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.
- J. The granting of this Special Permit approval 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.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 13, 2024). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans, as required to be revised herein pursuant to Condition A, 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 60 days of this approval, and prior to resuming work on the property.

Vice-Chairman Reilly read the next agenda item:

Coastal Site Plan Review #227-B, Flood Damage Prevention Application #254-C, Land Filling & Regrading Application #459, Site Plan Application #253-B / Special Permit, Town of Darien, Weed Beach Park, 155 Nearwater Lane. Proposing to construct a sixth paddleball court directly north of the five existing paddle courts with associated lighting, decking, and retaining wall; and to perform related site development activities within regulated areas. *HRG. CLOSED: 5/30/2023.*

Commission members reviewed the draft resolution. Mr. Balgach asked whether the Commission

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should require an as-built survey as a condition of successful project completion. Commission members agreed that it is a common requirement, and would be helpful for the Town to complete. Mr. Nedder then made a motion to adopt the resolution, with the change to Condition K to require an as-built survey. That motion was seconded by Ms. Barsanti, and approved by a vote of 4-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 13, 2023**

Application Number: Coastal Site Plan Review #227-B
Flood Damage Prevention Application #254-C
Land Filling & Regrading Application #459
Site Plan Application #253-B / Special Permit
Town of Darien, Weed Beach Park, 155 Nearwater Lane
(PL23-38)

Street Address: 155 Nearwater Lane
Assessor's Map #56 Lots #3 through #10

Name and Address of Property Owner:
and Applicant: Town of Darien
c/o Parks and Recreation
2 Renshaw Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Dan Biggs, RLA, ISA, CERP
Weston & Sampson
712 Brook Street
Rocky Hill, CT 06067

Activity Being Applied For: Proposing to construct a sixth paddleball court directly north of the five existing paddle courts with associated lighting, decking, and retaining wall; and to perform related site development activities within regulated areas.

Property Location: The subject properties are located on the southwest side of Nearwater Lane approximately 250 feet southwest of the corner formed by its intersection with Brush Island Road.

Zone: R-1

Date of Public Hearing: May 30, 2023

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

Publication of Hearing Notices
Dates: May 18 & 25, 2023

Newspaper: Darien Times

Date of Action: June 13, 2023

Action: GRANTED WITH STIPULATIONS

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Scheduled Date of Publication of Action: Newspaper: Darien Times
June 22, 2023

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, 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 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 sixth paddleball court directly north of the five existing paddle courts with associated lighting, decking, and retaining wall; and to perform related site development activities within regulated areas. The court is proposed to be heated and have lights. The area of the proposed court is now lawn area. A public park is a Permitted Use in the R-1 (Residential) Zone, and the subject properties are served by public water and sewer.
2. Planning & Zoning Department staff member Rick Talamelli submitted a one-page memo dated May 20, 2023 for the record, regarding the proposed work in the flood zone.
3. No members of the general public submitted testimony for the record or spoke at the public hearing.

STORMWATER MANAGEMENT

4. Professional Engineer Joseph Canas of Tighe & Bond submitted comments for the record dated May 16 and May 22, 2023. Those comments are included as part of the record. It is noted that the applicant responded to Mr. Canas' comments via a May 22, 2023 e-mail.
5. The subject property is located within the lower 1/3 of the watershed. The Commission finds that there is no requirement or need to detain water and manage stormwater quantity, because of the property's direct proximity to the Long Island Sound.
6. The Commission finds that if implemented property, the proposed site development activities will have no adverse impacts to adjoining property owners or any downstream drainage systems.

PROPOSED WORK WITHIN THE FLOOD ZONE

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7. 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 regrading for the construction of the court.
8. 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.
9. 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

10. A Coastal Area Management Report prepared by Weston & Sampson, dated April 2023 was submitted for the record as part of the application.
11. The State of CT DEEP submitted comments from Julia Kendzierski dated May 25, 2023 via a comments checklist. In those comments, they note that the applicant should ensure that all proposed elements will be properly anchored to remain in place during a flood event and that any utilities, such as court heating units, should be flood proofed or elevated. At the public hearing, Mr. Biggs confirmed that the heater(s) will be attached to the side of the structure at grade, rather than below the structure.
12. 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.
13. 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.
14. The Commission finds that the potential adverse impacts of the proposed activity on coastal resources are acceptable.

LAND FILLING & REGRADING SPECIAL PERMIT FINDINGS

15. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
16. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

SPECIAL PERMIT FINDINGS

17. It was noted at the public hearing that the sixth paddleball court will improve the operational efficiency of the Weed Beach's paddle sport operation and is not intended to allow for an increase in overall usage of the courts.
18. The use of all paddleball courts will be limited to the hours of 8:00 a.m. through 10:00 p.m. on a daily basis. This will be the same as the other five courts adjacent to it.

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19. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
20. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
21. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
22. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a) through (g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #227-B, Flood Damage Prevention Application #254-C, Land Filling & Regrading Application #459, and Site Plan application #253-B / Special Permit are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans generally entitled ‘Weed Beach Paddle Court Improvements, Darien’, Weston & Sampson, April 21, 2023:
 - Sheet G000, Cover Sheet;
 - Sheet C101, Existing Conditions and Removals Plan;
 - Sheet C102, Site Layout Plan;
 - Sheet C103, Grading, Erosion & Sediment Control Plan;
 - Sheet C501, Erosion & Sediment Control Details;
 - Sheet C502, Erosion & Sediment Control Details;
 - Sheet GN001, Structural Notes;
 - Sheet CD001, Foundation Plan;
 - Sheet SD001, Typical Court Framing Plan;
 - Sheet SD002, Framing Plans;
 - Sheet SD003, Elevation and Deck Painting Plan;
 - Sheet SD004, Sections;
 - Sheet SD005, Sections;
 - Sheet SD006, Sections and Details.
- B. As confirmed at the public hearing, the hours of use of the proposed paddleball court shall be the same as the maximum hours of the other, adjacent courts.
- C. In conjunction with the Zoning and Building Permit applications, the plans shall be accompanied by a certification from a licensed architect and/or engineer that verifies that the final, detailed design of the court and retaining wall to be located within the flood zone include the applicable requirements to minimize flood damage.
- D. The applicant shall implement “quick disconnects” for all wiring and heating elements located within the flood zone, to enable the Town to remove and safely store essential components in advance of a major storm.

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- E. If necessary, the lighting fixtures shall be modified as necessary to assure that the source of illumination, the light bulb and/or reflectors, are not visible beyond the property lines.
- F. During construction, the applicant shall utilize sediment and erosion controls and any additional measures as may be necessary due to site conditions. These 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 immediately after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient. All erosion control measures must be maintained until the disturbed areas are stabilized.
- G. 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. The material excavated from the site to accommodate the development activity and to accomplish the approved site grading, shall be removed from the site.
- H. Due to the nature of the proposal and the overall size of the subject property, the Commission hereby waives the requirement for a formal stormwater management plan or the installation of any stormwater management pursuant to Section 880 of the Regulations.
- I. The applicant shall submit verification in writing and/or photographs from the professional engineer that all aspects of the grading have been completed in compliance with the approved plans referred to in Condition 'A', above.
- J. The granting of this Permit 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 agencies. Zoning and Building Permits will be required for the new paddle court and associated lighting. These permits shall include final plans and certifications from a CT architect or engineer regarding the design relative to the flood regulations (as noted in Mr. Talamelli's memo).
- K. Prior to the issuance of a Certificate of Approval/Completion of the project, the following shall be submitted:
 - 1) An as-built survey, prepared by a licensed land surveyor showing the location of the new court.
 - 2) Certification of the final elevations of the court and the heating system relative to the flood zone.
- L. 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.
- M. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within two (2) years of this action (June 13, 2025). The Commission hereby approves this

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project with three year duration. This may be extended as per Sections 815, 829f, 1009, and 1028.

All provisions and details of the application, as approved herein, shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form will be filed in the Darien Land Records prior to the issuance of a Zoning & Building Permit.

Vice-Chairman Reilly read the next agenda item:

Discussion and deliberations ONLY regarding Coastal Site Plan Review #375 and Filling & Regrading Application #550, WZ III 2002 Trust FBO M.J. Ziegler, 95 Long Neck Point Road. Proposal to construct a new 4-bedroom single-family dwelling on a now vacant lot, construction of a new driveway, a porch, and a pool; and to perform related site development activities within a regulated area, including regrading of the property and installation of stormwater management. *HEARING CLOSED: 6/6/2023.*

Ms. Barsanti noted that she was recused on this matter, and she did not participate in the deliberations. Mr. Nedder, Mr. Balgach, and Mr. Reilly all agreed that there were no issues or concerns with the subject application relative to coastal or grading issues. Mr. Balgach noted that the setbacks shown on the original subdivision are to be enforced by the Association, and not the Town, so it will be up to other owners to enforce. Mr. Nedder agreed that by the applicant not conforming with those special zoning setbacks, they could be causing a problem for themselves down the road. It was agreed that staff would draft a resolution for consideration at an upcoming meeting.

Vice-Chairman Reilly read the next agenda item:

Coastal Site Plan Review #376 and Land Filling & Regrading Application #551, RRE Holdings, LLC, 244 Long Neck Point Road. Proposal to construct a 20'x 50' in-ground pool on the southern portion of site, and to perform related site development activities within a regulated area, including regrading of the property, installation of stormwater management, and connecting the main residence and cabin on the property to sanitary sewer in Long Neck Point Road.

Mr. Balgach noted the letter from Health Department Director David Knauf, and the need to be cautious relative to the existing septic system. Mr. Balgach said that it would be important to get the sequencing correct. It was noted that the sanitary sewer hookup should come first. Mr. Reilly, Mr. Nedder and Ms. Barsanti had no issues or concerns beyond those voiced by the Health Department.

At about 9:10 p.m., Vice-Chairman Reilly read the next agenda item:

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

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to increase the maximum floor area of dwelling units in the Central Business District (CBD) from 1,000 square feet to 1,600 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, and to clarify the residential parking requirements in the Central Business District (CBD); 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 38 surface level parking spaces will be created under the building. *HEARING CLOSED: MAY 23, 2023.*

Mr. Ginsberg said that he would get the Commission members the comments submitted by the Fire Marshal and LTA that are already in the record on this matter. Ms. Barsanti said that a proper evacuation plan would be important, since the property is in the flood zone. Mr. Nedder agreed. Commission members then reviewed the items on the blue sheet of Talking Points for Commission Deliberation prepared by staff. Mr. Nedder then asked about the parking issue, and whether a regulation change is required to satisfy the on-site parking requirement. Ms. Barsanti also asked about the three story issue relative to the provision of a public plaza.

There being no other business, Mr. Nedder made a motion to adjourn the meeting. That motion was seconded by Mr. Balgach and unanimously approved by a vote of 4-0. The meeting was thus adjourned at 9:17 p.m.

Respectfully submitted,

Jeremy B. Ginsberg, AICP
Director of Land Use