

**PLANNING AND ZONING COMMISSION
DRAFT MINUTES
PUBLIC HEARING / GENERAL MEETING
September 26, 2023**

Place: Room 206, Darien Town Hall

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Olvany, 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

Proposed Amendment to the Darien Zoning Map (COZM #1-2023) (PL-23-121) put forth by the Noroton Fire Department, 1921 Boston Post Road, Special Permit Application #332 / Site Plan.

Proposal to amend the Darien Zoning Map to apply the Municipal Use Overlay Zone (MU) to 1921 Boston Post Road; Proposal to convert the existing building on the site to a three-bedroom single-family residence for the housing of volunteer firemen, and to perform related site development activities. A total of 4 surface-level parking spaces will remain behind the building. The 0.12+/- acre subject property is located on the north side of Boston Post Road approximately 165 feet east of its intersection with Garden City Road, and is shown on Assessor's Map #42 as Lot #4 in the Neighborhood Business Zone (NB).

Mr. Olvany noted that the purpose of the Municipal Use zone is to accommodate use of the Town. He noted that the prior uses of this property includes Fox Hill Builders, a mortgage broker, and a children's clothing store. Mr. Doneit confirmed that this is a two-part application: a zoning map amendment, and a Special Permit/Site Plan application. It was mentioned that the MU overlay zone was established in 2006. The rezoning will allow the entire building to be used as a single-family residence for the Fire Departments. Mr. Olvany confirmed that the actual firehouses have already had the MU overlay zone placed upon them.

Robert Buch, Sr. and Robert Buch, Jr. were present to discuss the application. They said that the goal is to preserve and attract volunteers and help retain young firemen. Mr. Buch, Sr. said that they will install a kitchen and bathroom, and convert the existing structure to a three bedroom single-family residence. Mr. Buch, Sr. said that the expectation would be that the volunteers who live here would be available a little more frequently. Rent will be charged. There are now four parking spaces on-site. If not enough Noroton Fire Department volunteers are interested in renting one of the bedrooms, it will be offered to volunteers from one of the two other Fire Departments in Town. Mr. Olvany said that it would be helpful to have tenant changes documented to the Planning & Zoning Department.

Mr. Olvany asked whether the Town would be eligible for moratorium points. Mr. Ginsberg responded that in his opinion, this single-family residence would not qualify, since it would not be opened up to the general public—only firefighters in the Town of Darien would be able to reside there. Mr. Buch, Sr. said that the parking will not be used for fire apparatus or large fire trucks. He did

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acknowledge that a “chief’s vehicle” could be parked there if one of the residents qualifies to use such a vehicle. Mr. Nedder wanted to make sure that there would be no disruption to the existing single-family neighborhood as a result of the conversion of the subject building to a residence.

Neighbor Pat Devlin of 7 Garden City Road asked whether a Dumpster would be placed on the property. Mr. Buch, Sr., responded that regular garbage cans would be used for the three residents.

There being no further questions or comments, Mr. Balgach made a motion to close the public hearing on this matter. That motion was seconded by Ms. Barsanti and was unanimously approved.

Chairman Olvany then read the next agenda item:

Land Filling & Regrading Application #555 (PL-23-114), Theresa N. Iorfino Revocable Trust, 9 Richmond Drive. Proposal to raze the existing residence and to construct a new single-family dwelling in generally the same location, construction of porch and deck areas, reconfiguration of the existing driveway; and to perform related site development activities, including regrading of the property and installation of stormwater management. The 0.52+/- acre subject property is located on the west side of Richmond Drive, approximately 430 feet north of its intersection with Boston Post Road, and is shown on Assessor’s Map #13 as Lot #9 in the R-1/2 Zone.

Mr. Doneit summarized the application. He noted that the stormwater design was reviewed by peer review engineer Joe Canas of Tighe & Bond. Mr. Doneit said that Professional engineer Brian Smith responded to Mr. Canas’ comments.

Professional engineer Brian Smith of D’Andrea Surveying & Engineering said that the subject property is in the R-1/2 zone and does not contain inland wetlands. There is now a knoll in the front yard, and that will remain as-is. They will be re-paving and re-using the existing driveway—there will be no change in the existing curb cut. The property is served by public water and sewer. There will be about 346 cubic yards of cut, and 44 cubic yards of fill. Thus, a net of 302 cubic yards of fill will be removed. He then summarized the locations of the proposed Cultec locations. He showed the proposed sediment and erosion controls. Mr. Nedder asked if there would be a generator. Mr. Smith responded that there would be.

There were no questions or comments from the general public.

There being no further questions or comments from Commission members, Mr. Nedder made a motion to close the public hearing on this matter. That motion was seconded by Ms. Barsanti and was unanimously approved.

At about 7:57 p.m., Chairman Olvany then read the next agenda item:

Land Filling & Regrading Application #556 (PL-23-122), Brian & Brett Edgar, 30 Hilton Street. Proposal to raze the existing residence and detached garage and to construct a new single-family dwelling, construction of a new driveway, retaining walls, and patio area; and to perform related site development activities, including excavation and regrading of the property and installation of

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stormwater management. The 0.17+/- acre subject property is located on the west side of Hilton Street, approximately 160 feet north of its intersection with West Avenue, and is shown on Assessor's Map #22 as Lot #26 in the R-1/5 Residential Zone.

Mr. Doneit summarized the application, noting that the request is made under Section 850 of the Zoning Regulations.

Attorney Amy Zabetakis of Rucci Law Group explained that the subject property is in the R-1/5 zone. She said that the detached garage would be removed as part of this project. They will be keeping the non-conforming portion of the house on the north side of the property. It was acknowledged that Hilton Street is lower than the house. They will be removing the existing asphalt driveway to the south. The submitted plans have been reviewed by peer review engineer Joe Canas of Tighe & Bond. There will be retaining walls on both sides of the new driveway.

Mr. Nedder asked whether the "fresh meadow" approach was used relative to the design of the stormwater design. Ms. Zabetakis said that it was.

Professional Engineer Wayne D'Avanzo said that he has addressed Mr. Canas' comments. There will be no change to the neighboring property to the south.

Mr. Nedder asked about the deed restriction in the front of the property. It was noted for the record that they are violating that private restriction line, however, it is not up to the Planning & Zoning Commission to enforce that.

No members of the general public spoke on the application.

There being no further questions or comments, Mr. Balgach made a motion to close the public hearing on this matter. That motion was seconded by Mr. Nedder and was unanimously approved.

At about 8:15 p.m., Chairman Olvany then read the first general meeting agenda item:

GENERAL MEETING

Amendment to Site Plan Application #306/Special Permit, The Mather Homestead Foundation, Inc., 19 Stephen Mather Road.

Request to modify Special Permit for a one-time/single-day basis to permit 400+ attendees, food sales, and a modified parking plan for a Fall Harvest Festival in October 2023.

Mr. Ginsberg explained the request from Heather Raker. It was noted that the Mather Homestead is now limited in their Special Permit to a certain amounts of events of varying sizes. Mr. Ginsberg said that they are required to submit an annual calendar the Planning & Zoning Department. Ms. Raker confirmed that many volunteers will be on-site to assist in traffic control and parking. She said that the event is scheduled for 11am to 2pm.

Mr. Balgach made a motion to approve the one-time event. Ms. Barsanti seconded the motion, which was approved by a vote of 4-0.

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Deliberations and possible decisions regarding:

Special Permit Application #290-A (PL-23-111), Alex Poon, Colonial Land Limited Partnership, 115 Old King's Highway North. Proposal to establish a new day spa in the space formerly occupied by uBreakiFix. The 0.08+/- acre subject property is located on the south side of Old King's Highway North 170 feet east of its intersection with Boston Post Road, and is shown on Assessor's Map #35 as Lot #19 in the Designed Business Zone (DB).

Commission members reviewed the draft resolution. Ms. Barsanti made a motion to adopt the resolution as written. Mr. Balgach seconded that motion, which was approved by a vote of 4-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 26, 2023**

Application Number: Special Permit Application #290-A

Street Address: 115 Old King's Highway North
Assessor's Map #35 Lot #19

Name and Address of Applicant & Applicant's Representative: Alex Poon
1693 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner: Steven Lupinacci
Colonial Land Limited Partnership
90 Brookside Drive
Stamford, CT 06903

Activity Being Applied For: Proposal to establish a new day spa in the space formerly occupied by uBreakiFix.

Property Location: The 0.08+/- acre subject property is located on the south side of Old King's Highway North 170 feet east of its intersection with Boston Post Road.

Zone: Designed Business (DB)

Date of Public Hearing: September 12, 2023

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

Publication of Hearing Notices

Dates: August 31, 2023 and September 7, 2023 Newspaper: Darien Times

Date of Action: September 26, 2023

Action: GRANTED WITH STIPULATIONS

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Scheduled Date of Publication of Action: Newspaper: Darien Times
October 5, 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 760 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 sketches, 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 day spa, offering massage therapy, facials, and nail services in the 1,070+/- square-foot first-floor space, formerly occupied by uBreakiFix. All proposed work is internal to the building. The basement area is to be used by employees and for dry storage and laundry only.
2. At the public hearing the applicant said that the business would operate between the hours of 9:30 a.m. and 7 p.m. Monday through Saturday and from 11 a.m. to 6 p.m. on Sunday. There would be a maximum of four or five employees on-site at any one time.
3. No public comment was received on the application either prior to, or during, the public hearing.

PARKING

4. With the conditions included herein, the Commission finds that a proposed parking capacity of ten (10) parking spaces (including two handicapped spaces) is sufficient for the proposed and foreseeable parking demands for the site as a whole. The number of spaces conforms with Section 904 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 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.

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7. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #290-A is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The proposed use shall be in accordance with the submitted application materials, including an 8-1/2" x 11" floorplan submitted to and reviewed by the Commission. The Commission acknowledges that the Fire Marshal, Health Department, and/or Building Official may work with the applicant on the final details of the floor plan. The Fire Marshal may require a plan showing use and changes to the basement area.
- B. The Commission hereby limits the hours of operation of the business to those put forth by the applicant: 9:30 a.m. to 7 p.m. Monday through Saturday and 11 a.m. to 6 p.m. on Sunday. If the applicant wishes to extend these hours, prior review and approval from the Planning & Zoning Commission shall be required.
- C. Because this application involves no new impervious surface, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. Any signage or façade change requires prior review by the Architectural Review Board (ARB). Final Health Department review shall be required before filing for the necessary Zoning/Building Permit for the interior tenant fit-out of the space.
- 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 this permit as it deems appropriate.
- F. 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 plan within one year of this action (September 26, 2023). This may be extended as per Section 1009.

All provisions and details of the application 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 shall be filed in the Darien Land Records within the next sixty days AND prior to the issuance of the Zoning and Building Permit for the tenant fit-out in order to finalize this approval.

Approval of Minutes

September 12, 2023

Commission members reviewed the draft minutes. Mr. Balgach made a motion to approve the minutes as written. That motion was seconded by Ms. Barsanti, and approved by a vote of 4-0.

Chairman's Report

Mr. Olvany noted that it was likely that Federal Realty will be coming before the Commission in October to discuss three aspects of their Darien Commons project on Heights Road. These are: the equipment parapet for the roof of Equinox; a foyer expansion of the 40 Heights Road building; and a minor redesign of the traffic flow and parking area near the Heights Road entrance.

Director's Report

Mr. Ginsberg mentioned the scheduled upcoming meetings in October and November. After some discussion, Commission members agreed that it would not be appropriate to meet on the first Tuesday in November, which is Election Day. Staff will cancel that scheduled meeting.

Other Business

Mr. Balgach made a motion to go into "Other Business" to deliberate on the three public hearing items closed this evening. That motion was seconded by Mr. Nedder and approved by a vote of 4-0.

Deliberations only

Proposed Amendment to the Darien Zoning Map (COZM #1-2023) (PL-23-121) put forth by the Noroton Fire Department, 1921 Boston Post Road, Special Permit Application #332 / Site Plan.

Proposal to amend the Darien Zoning Map to apply the Municipal Use Overlay Zone (MU) to 1921 Boston Post Road; Proposal to convert the existing building on the site to a three-bedroom single-family residence for the housing of volunteer firemen, and to perform related site development activities.

The four Commission members were each in favor of rezoning the property to incorporate the MU overlay zone. Relative to the Special Permit/Site Plan application, the Commission briefly reviewed Sections 422a and 422b of the Regulations. They also noted that since the property will be used as a single-family residence, there was no need for a Dumpster, as regular garbage cans and pickup can be used. No other issues were identified, and staff was instructed to draft a resolution for an upcoming meeting in October.

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Land Filling & Regrading Application #555 (PL-23-114), Theresa N. Iorfino Revocable Trust, 9 Richmond Drive. Proposal to raze the existing residence and to construct a new single-family dwelling in generally the same location, construction of porch and deck areas, reconfiguration of the existing driveway

Mr. Nedder noted that there was a question of whether the “Fresh meadow” approach was used by the applicant’s engineer. He said that it would be helpful to get written confirmation of such from the engineer, either in an amended stormwater report or via letter or e-mail. No other issues were identified, and staff was instructed to draft a resolution for an upcoming meeting.

Land Filling & Regrading Application #556 (PL-23-122), Brian & Brett Edgar, 30 Hilton Street. Proposal to raze the existing residence and detached garage and to construct a new single-family house.

Commission members noted that the applicant’s attorney said that all property owners on Hilton Street were notified of the application, and they asked staff to confirm that proof of such mailing was in the record. While the Commission acknowledged the presence of a private deed restriction on the property, they agreed that it was not up to them to enforce such—but rather the other nearby property owners. Staff was instructed to draft a resolution for the Commission’s consideration at an upcoming meeting in October.

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 9:05 p.m.

Respectfully submitted,

Jeremy B. Ginsberg, AICP
Director of Land Use

9.26.2023min