

**PLANNING AND ZONING COMMISSION  
MINUTES  
EXECUTIVE SESSION and GENERAL MEETING  
May 11, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Voigt, Hutchison, Cameron, Riccardo

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79 (except for Executive Session)

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**EXECUTIVE SESSION**

**Executive Session to discuss pending litigation with Town Counsel.**

Commission members discussed pending litigation matters with staff and Counsel John Louizos and Wayne Fox. No motions were made and no actions were taken during the Executive Session. At about 9:00 p.m., the following motion was made: To come out of Executive Session and to continue with the general meeting. That motion was made by Mrs. Riccardo, seconded by Mr. Hutchison and unanimously approved.

**GENERAL MEETING**

At about 9:05 p.m., Mr. Conze read the first agenda item:

**Amendment of Business Site Plan #228-A/Protected Town Landmark #7-A, Little Red Schoolhouse, 21 Tokeneke Road, CBD Zone.**

Proposed change of use to have two commercial service uses on the second floor (two hair salons/barbershops) and a proposed retail use on the first floor.

A letter from Charles Thomas was reviewed and discussed. Mr. Ginsberg explained that there were two options regarding the use of the building. The first option would be to add a second haircutter to the second floor and to add a second retail business to the first floor. The second option is to have the entire second floor be for a single haircutter and to have the first floor be to have the haircutter in one section and a retail store in the other. Commission members believed that the parking demand regarding the proposed second option would be spread out enough to be accommodated by the adjacent municipal parking area and on street parking. No on site parking is required for this site because of participation in the municipal parking program.

The following motion was made: That the Commission approve the request to modify the uses in accordance with the second option, which is to have one hairstylist business on the entire second floor and to have a second hairstylist on the first floor and a retail use on the first floor. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Mr. Conze then read the next agenda item:

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**Amendment of Business Site Plan #244, 76 Tokeneke Road (formerly 70 Tokeneke Road), DC Zone.**

Request for a new second floor office use tenant (previous use approved was for showroom/display area).

Commission members recalled that the approved use was as a construction contractor / designer show room on the first floor and to have the offices of the designers on the second floor. The on site parking was based on this unique use. The building has been constructed and has never been occupied. A new use is proposed. The new use is described in the letter from attorney Michael Murray. The second floor would be offices for an investment company that would have six or seven employees. No first floor tenant is proposed at this time. Commission members noted that specific approval from the Planning and Zoning Commission would be necessary for the first floor tenant and the sufficiency of the on-site parking would be a concern.

The following motion was made: That the Commission approve the proposed second floor use at 70 Tokeneke Road. That motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

**Discussion of possible proposed Zoning Regulation amendments for consideration to formally be put forth by the Commission.**

Mr. Ginsberg explained that several possible amendments to the Regulations have been discussed and are included in his May 7, 2010 two-page memorandum to the Commission. With the Commission's permission, staff will work on clarifications of the Regulations regarding building coverage; non-conforming uses; moderate income and housing incentive; and signs for real estate agents and contractors. Draft Regulations will be distributed to Commission members in the future.

Mr. Conze then read the next agenda item:

*Discussion and possible decision on the following public hearing items closed on April 27<sup>th</sup>:*

**Coastal Site Plan Review #253, Flood Damage Prevention Application #283, Land Filling & Regrading Application #239, James & Elizabeth Degnan, 19 Brush Island Road.** Proposing to demolish the existing residence and construct a new single-family residence, with associated septic system and stormwater management system and to perform related site development activities within regulated areas. *DECISION DEADLINE: 7/1/2010.*

The following motion was made: That the Commission waive the process of reading the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Commission members discussed the draft resolution regarding the proposed redevelopment of the property at 19 Brush Island Road. After a brief discussion, the following motion was made: That the Commission approve the application subject to the conditions of stipulations contained within the resolution. Motion was made by Mr. Voigt, seconded by Mr. Hutchison. All voted in favor except Mrs. Riccardo, who abstained because she had not attended the public hearing. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 11, 2010**

Application Number: Coastal Site Plan Review #253  
Flood Damage Prevention Application #283  
Land Filling & Regrading Application #239

Street Address: 19 Brush Island Road  
Assessor's Map #56 Lot #20

Name and Address of Property Owner: James & Elizabeth Degnan  
And Applicant: 19 Brush Island Road  
Darien, CT 06820

Name and Address of Applicant's Representative: Thomas Nelson, PE  
McChord Engineering Associates  
1 Grumman Hill Road  
Wilton, CT 06897

Activity Being Applied For: Proposing to demolish the existing residence and construct a new single-family residence, with associated septic system and stormwater management system and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the north side of Brush Island Road approximately 1,500 feet west of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: April 27, 2010

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 15 & 22, 2010

Newspaper: Darien News-Review

Date of Action: May 11, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 20, 2010

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- 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 demolish the existing residence and construct a new single-family residence, with associated septic system and stormwater management system and to perform related site development activities within regulated areas. The subject property is 2.16+/- acres, and is adjacent to Holly Pond. It is served by public water and an on-site septic system.
2. As shown on the submitted plans, the flood elevation on the subject property is at elevation 13.0. The work proposed within the flood zone as part of this application includes some of the filling and regrading; installation of water service; relocation of the driveway; new drainage facilities; and a portion of the proposed new septic system. The proposed residence is shown to be entirely outside of the flood zone. Therefore, the structure does not need to meet the requirements of Section 820, and is allowed to have a basement.
3. As shown on the submitted "Septic System/Site Development Plan", the applicant has shown a large number of trees to be preserved as part of this project.
4. The Darien Environmental Protection Commission (EPC) approved this project on March 3, 2010 as part of EPC #4-2010. That approval is hereby incorporated by reference.
5. As part of this application, stormwater management has been proposed via a proposed rain garden in the front of the proposed residence.
6. The Commission notes the need for the applicant to file a document regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to the adjacent wetlands and Holly Pond.
7. The State of Connecticut DEP sent an e-mail dated April 27, 2010 stating that they "...have reviewed the application materials for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA)...and find no inconsistencies with the proposal."
8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

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10. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
11. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.
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.
13. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #253, Flood Damage Prevention Application #283 and Land Filling & Regrading Application #239 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the proposed residence with associated stormwater management system, filling and regrading, septic system and related activity shall be in accordance with the following plans:
  - “Septic System/Site Development Plan 19 Brush Island Road” by McChord Engineering Associates, Inc., dated February 17, 2010 and last revised 3/18/10, Drawing No. SE1.
  - “Construction Notes and Details 19 Brushy [*sic*] Island Road” by McChord Engineering Associates, Inc., dated February 17, 2010 and last revised 3/18/10, Drawing No. SE2.
  - “Typical Planting Plan for Rain Garden”, Degnan Residence 19 Brushy [*sic*] Island Road, by Environmental Land Solutions, LLC, dated Feb. 16, 2010, Drawing No. RG.1.
  - “New Residence: Degnan 19 Brush Island Rd.”, by Cugno Architecture, dated 1/13/10 and last revised 2/15/10, Drawings No. A1 through A8.
- B. The Commission hereby waives the requirement for a Performance Bond.
- C. During construction, regrading and site work, the applicant shall utilize sediment and erosion controls as shown on the submitted plans referred to in Condition A, and as may be necessary due to site conditions. These sediment and erosion 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 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.
- D. A final “as-built” survey is hereby required to certify that the regrading, site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance

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with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance with the approved plans.

- E. A Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 19 Brush Island Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner, within the next 60 days and prior to the start of any filling or regrading work.
- F. The applicant must make sure that at all times during the redevelopment of the site, the storm water 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 speedy restabilization of all disturbed areas.
- G. 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.
- H. 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 approval of the Darien Health Department for the new septic system.
- 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 (May 10, 2011). This may be extended as per Sections 815, 829f, and 858.

All provisions and details of the plans 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. Both a Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by July 11, 2010, or this approval shall be null and void.

Chairman Conze read the following agenda item:

**Land Filling & Regrading Application #240, Nicholas & Christa Struk, 32 Old Oak Road.**

Proposing to fill and regrade a portion of the back yard, and to perform related site activities. *DECISION DEADLINE: 7/1/2010.*

Commission members discussed the draft resolution. Mr. Hutchison noted that there needed to be a clarification regarding the drainage maintenance plan. The Commission members agreed that the resolution should be revised accordingly. The following motion was made: That the Commission

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approve the application for the filling and regarding of 32 Old Oak Road, subject to the conditions and stipulations contained within the revised resolution. That motion was made by Mr. Hutchison and seconded by Mr. Voigt. All members voted in favor except Mrs. Riccardo, who abstained because she had not attended the public hearing. The motion passed by a vote of 5-0-1. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 11, 2010**

Application Number: Land Filling & Regrading Application #240

Street Address: 32 Old Oak Road  
Assessor's Map #29 Lot #131

Name and Address of  
Property Owner: Nicholas & Christa Struk  
32 Old Oak Road  
Darien, CT 06820

Name and Address of Applicant &  
Applicant's Representative: Bruce Eckerson  
Wesley Stout Associates  
96 Main Street  
New Canaan, CT 06840

Activity Being Applied For: Proposing to fill and regrade a portion of the back yard, and to perform related site activities.

Property Location: The subject property is located on the west side of Old Oak Road approximately 650 feet north of its intersection with Leeuwarden Road.

Zone: R-1/2

Date of Public Hearing: April 27, 2010

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices  
Dates: April 15 & 22, 2010 Newspaper: Darien News-Review

Date of Action: May 11, 2010 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review  
May 20, 2010

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

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- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, 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 subject application is to fill and regrade a portion of the back yard, and to perform related site activities. The overall purpose is to expand the usable area of the back yard. There will be no new impervious surface created as part of this proposal.
2. At the public hearing, the applicant's representative explained that the plans had been revised to address concerns from the Darien Public Works Department.
3. The Commission notes with respect to the proposed drainage system, the need for the property owner to file a Notice of Drainage Maintenance Plan outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. 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 and Regrading Application #240 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, regrading work, and construction of the associated retaining wall shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - "Site Plan Struk Residence 32 Old Oak Road" by Wesley Stout Associates, scale 1"=10', dated 3-24-2010 and last revised 4/20/10, Sheet SP-1.
  - "Site Details Struk Residence 32 Old Oak Road" by Wesley Stout Associates, dated 4-20-10, Sheet SP-2.
- B. The Commission hereby waives the requirement for a Performance Bond.

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- C. By July 11, 2010 (within the next 60 days) and prior to the start of any filling or regrading work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 32 Old Oak Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- D. During the completion of the regrading and site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plans referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and 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, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The applicant must make sure that at all times during the redevelopment of the site, the storm water 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 speedy restabilization of all disturbed areas.
- F. Upon completion of the work, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans. This shall include written certification for the project's professional engineer that the approved grading and the drainage facilities have been installed according to the approved plans and that the wall is structurally stabilized in accordance with sound engineering practice and as designed. The applicant shall provide as-built map(s) and drawings to illustrate the final finished grade, the trees and landscaping that have been planted, and that the soil has been properly stabilized.
- G. 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.
- H. The granting of this approval does not relieve the developer/builder of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan

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within one (1) year of this action (May 10 2011). This may be extended as per Sections 858 and 1009.

All provisions and details of the application 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 and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the filling or regrading work. A Drainage Maintenance Plan also needs to be prepared and submitted to the Planning and Zoning Department within the next 60 days, or this approval shall become null and void.

**Approval of Minutes**

*April 27, 2010 General Meeting*

Mr. Spain had a number of typographical corrections to be made. Commissioners agreed that the corrections were acceptable. The following motion was made: That the Commission approve the minutes as revised. The motion was made by Mrs. Cameron and seconded by Mr. Spain. All voted in favor except Mrs. Riccardo, who abstained because she had not attended the meeting. The motion to approve the minutes as amended was passed by a vote of 5-0-1.

There being no further business, the meeting was adjourned at 9:22 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning

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