

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 17, 2017

Application Number: Proposed Amendments to the Darien Zoning Regulations (COZR #10-2016),
Special Permit Application #188-F/Site Plan

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of:
Property Owner: Darien Board of Education/Town of Darien
35 Leroy Avenue/2 Renshaw Road
Darien, CT 06820

Name and Address of
Applicant: Darien Board of Education
35 Leroy Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative:
(as noted on application form): Dr. Daniel Brenner
Darien Public Schools
35 Leroy Avenue
Darien, CT 06820

Name and Address of
Applicant's Representatives'
Attorney at Public Hearing: Christopher J. Smith, Esq.
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103

Activity Being Applied For: Proposal to amend the Darien Zoning Regulations to permit permanent lighting facilities up to eighty (80) feet high; and to request a special permit/site plan review for proposed permanent lighting facilities and an upgraded public address (PA) system at the Stadium Field on the Darien High School property.

Property Location: The subject property is located on the north side of High School Lane approximately 800 feet west of its intersection with Middlesex Road.

Zone: R-2

Date of Public Hearing: November 29, 2016
Deliberations Held: December 13, 2016 and January 10, 2017

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: November 18 & 25, 2016 Newspaper: Darien News

Date of Action: January 17, 2017

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Actions:

Zoning Regulation Amendments: ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 5, 2017 AT 12:01 P.M.
Special Permit Application #188-F/Site Plan: GRANTED WITH STIPULATIONS WITH AN
EFFECTIVE DATE OF SUNDAY, FEBRUARY 12, 2017 AT 12:02 P.M.

Scheduled Date of Publication of Actions: Newspaper: Darien News
January 27, 2017

Following careful review of the submitted zoning regulation application materials and related analyses, the Commission finds:

- the proposed Zoning Regulation amendments must be consistent with the 2016 Town Plan of Conservation & Development for the Commission to adopt said Regulation amendments.
- 1. The subject applications consist of:
 - a) a proposal to amend the Darien Zoning Regulations to permit permanent lighting facilities up to eighty (80) feet high; and
 - b) a related site plan/special permit application has been formally submitted, for proposed permanent lighting facilities and an upgraded public address (PA) system at Stadium Field at Darien High School. That site plan/special permit decision is also being made by this Commission later on in this document.
- 2. The applicant's zoning regulation amendment proposal, as outlined within Exhibit B of their November 29, 2016 Packet in Support of Applications (a yellow covered bound document), would allow for lights up to 80 foot high as an Accessory use Requiring a Special Permit in the R-2, R-1, R-1/2, R-1/3 and R-1/5 zones, to accommodate town or school athletic or related activities, or town non-profit organization athletic activities. A review of the Town Zoning Map shows that a large portion of Darien is in one of these five zoning districts.
- 3. At the public hearing, questions were raised by Commission members on the proposed zoning regulation amendment. Ms. Cameron questioned whether the amendments applied only to athletic events; Mr. Voigt questioned whether there were other potential properties in Town that might be subject to or may benefit from the amended regulations; Mr. Cunningham questioned whether the use of lighting would be restricted to municipal or Board of Education use or if for example non-profits or other organizations could use the lights.
- 4. The Commission is of the opinion that the proposed zoning regulation amendment should be further refined and take into consideration other factors such as lot size to narrow down the number of properties that would potentially be eligible for projects under the amendments. The Commission has hereby included a provision that would limit 80 foot high light installations, not only to include the limits and restrictions put forth by the applicant, but also to limit the installation of such lights on properties of certain sizes. The Commission knows that it is unreasonable to assume that the glow of a lighted field would never be seen by someone off site,

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but provisions must be incorporated into the design and use of the lights to make sure that the light source and the effect of the lighted field will not unreasonably impact adjacent neighbors. The Commission has also put the amendment into a slightly different format to make it easier to understand.

5. The Commission hereby finds that the proposed zoning regulation amendment, as modified herein, is consistent with the 2016 Town Plan of Conservation & Development.

NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #10-2016), is hereby adopted subject to the foregoing and following modifications and understandings:

NEW WORDING IN BOLD, DELETIONS IN STRIKEOUT:

Changes to Section 405b of the Zoning Regulations---Accessory Uses Requiring Special Permits

PROPOSED AMENDMENT TO SECTION 405b:

to amend the Darien Zoning Regulations to allow permanent lighting facilities up to eighty (80) feet high.

- b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
- (1) The source of such lights shall be concealed from surrounding residential properties;
 - (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;
 - (3) **Except as provided by Subsection 405b(5)**, no permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.
 - (4) Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:
 - a) Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;
 - b) Located on public (i.e. Town-owned) property; and
 - c) Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.
 - (5) **Lighting facilities that are permanent may be mounted up to 80 feet above grade provided such lighting fixtures are:**
 - a) **Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;**

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- b) Located on Town of Darien and/or Board of Education property of greater than six (6) acres in size;**
- c) Angled and/or shielded to prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above;**
- d) Used to accommodate town or school athletic or related activities, or town non-profit organization athletic activities.**

The Commission has conducted its special permit/site plan review and has made the following findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 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 submitted application materials, and the statements of the applicant and applicant's attorney 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.
1. The pending application is to request a special permit/site plan review and approval for proposed permanent eighty foot high lighting facilities and an upgraded public address (PA) system at Stadium Field at Darien High School. In September 2016, the Commission issued a positive mandatory referral report on lighting facilities on the field.
 2. In the recent past, during Fall Sports seasons at Darien High School, the use of six 20 and 30 foot high portable, temporary lights was carried out at the High School's Stadium Field after approval from the Planning & Zoning Commission. Those lights were specifically designed for use during practice, not during competitions or games.
 3. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-family houses; and with the Stadium Field, in particular, located directly adjacent to a portion of that neighborhood. Another factor in this consideration is the evolution of lighting technology over the past decade.
 4. The Commission acknowledges that over 75 e-mails were received on the application from the public and that nearly all of that e-mail correspondence was in favor of the application.
 5. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon practices on the Stadium Field

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now occur, and will continue to occur. Games of various sports teams will continue to occur, but instead of the games only being during daylight hours, a limited number of games will be played in the evening, under the lights.

6. At the public hearing, Mr. Mahoney, the applicant's lighting expert from MUSCO Lighting, described the zero grid illumination summary and property line illumination summary and explained that there would be 0.0 footcandles at the property lines and no glare impact to neighboring properties. Mr. Mahoney continued with describing the technical details of the proposed lighting facilities. He explained that four light poles are proposed at the stadium each with 13 LED lighting fixtures shining downward. As the main lighting fixtures direct light downward, Mr. Mahoney also detailed four uplighting fixtures which he explained would provide ball tracking in the nighttime sky. These lights, aimed upward, would be mounted at 25 feet above grade on each of the four proposed poles, and may be controlled independently.

PARKING/TRAFFIC/SECURITY

7. Comments were received from Don Anderson on behalf of the Legal Traffic Authority. Those comments are as follows:
"The position of the Legal Traffic Authority remains unchanged; sporting and public events can and will be effectively managed from a Legal Traffic Authority standpoint with proper dialogue, advance planning of events and ongoing post event debriefing and review. Staffing and traffic management of night time events may be different than day time events. This would be under the purview of the Chief of Police as mandated by CGS 7-284."

That Statute reads as follows:

Sec. 7-284. Police protection at places of amusement. When police protection is necessary or required at any boxing bout or wrestling match, place of public amusement, sport contest or hockey, baseball or basketball game, or any other exhibition or contest, which is being held or is to be held in any municipality, the amount of such protection necessary shall be determined and shall be furnished by (1) the chief or superintendent of the police department in any municipality having an organized or paid police department or (2) the commanding officer of the state police troop having jurisdiction over the municipality in any municipality having a resident state trooper. Any such protection shall be paid for by the person or persons operating, conducting or promoting such game, exhibition or contest.

PROPOSED LANDSCAPING/PLANTING

8. The proposed landscaping/planting aspect of the application is subject to a wetland permit from the Town's Environmental Protection Commission (EPC). A November 22, 2016 memo was received from Richard Jacobson, EPC staff, noting that the EPC was likely to vote to approve the application on December 7, 2016.
9. At the public hearing, Landscape Architect Matt Popp described the landscape and planting plan and showed the Commission proposed landscaping on the eastern portion of the site consisting of Norway Spruce, arborvitae, and shade trees. Attorney Smith noted that the applicant was not required to place landscaping, but that the applicant worked with the neighbors and agreed to take measures to supplement the existing woodland area to provide more of a buffer. While this landscaping may assist in minimizing possible noise and visual impacts to the neighbors to the east, there is no requirement that this landscaping become a "buffer" or fully screen the field and/or the lights.

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10. Mr. Popp explained that the trees are proposed to be planted at 8-10 feet in height and that the vegetation would likely grow at a rate of 18-24 inches per year, and that spruces could eventually grow to be sixty feet high. Mr. Popp also noted that in his professional opinion that the proposed lights would not impact habitat for wildlife in the vicinity of the site, and in fact, would add habitat with the proposed new plantings.
11. Dr. Brenner said that the Board of Education worked with the neighbors to create a solution that worked and did so in a cost effective way. He explained that it would not be financially feasible to plant the volume of trees and landscaping in heights larger than proposed.

PUBLIC ADDRESS (PA) SYSTEM

12. At the public hearing, Ms. Cameron inquired about the proposed Public Address (PA) sound system and asked where the speakers would be placed. Dr. Brenner explained that in the current condition there are three bullhorn speakers on the press box. Under the proposed condition, an increased number of new speakers would be evenly placed throughout the stadium on the light poles and on the press box. Mr. Voigt questioned the latest time at which the sound system would be used. Dr. Brenner responded that the intention is to cease use of the system by 10 p.m. Attorney Smith said that noise will comply with Connecticut State Statutes.

SITE PLAN AND SPECIAL PERMIT FINDINGS

13. Given the short and limited duration of the proposed use annually, the location and size of the use and the nature and intensity of the proposed operation, the Commission finds that the proposal is in harmony with the appropriate and orderly development of the district in which it is located, and conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
14. 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.
15. The Commission finds that the limited use and the specific location and nature of the proposed lighting 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. The Commission knows that it is unreasonable to assume that the glow of a lighted field would never be seen by someone off site, but provisions have been incorporated into the design and use of the lights to make sure that the light source and the effect of the lighted field will not unreasonably impact adjacent neighbors. The existing and proposed landscaping will not completely obliterate the view of the lights from every location at all times, but the landscaping will limit and soften the potential impacts of the lights and the lighted field. Provision is being made to incorporate adjustments to the lights to minimize the potential impacts upon neighbors.

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16. The design, location, and specific details of the proposed use 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.
17. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
18. The Commission finds that the site plan is in general compliance with the intent, purposes and objectives of Section 1020. The elements of the Site Plan submitted as part of the Special Permit application accomplish the objectives for Site Plan approval.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #188-F/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the lights and landscaping/planting shall be in accordance with the following:
 - “Site Plan - Stadium Field Improvements” Darien High School, by Tighe & Bond, dated October 5, 2016, Sheet C-1. (plan showing the proposed light pole location). (also shown as Exhibit F in the applicant’s November 29, 2016 bound packet in support).
 - Screening Planting Plan Darien High School Ball Fields by Environmental Land Solutions, dated 9.6.16, Drawing No. LP.1. (also shown as Exhibit G in the applicant’s November 29, 2016 bound packet in support).The lighting shall be as specifically detailed on the submitted MUSCO Lighting plans and described by the MUSCO Lighting representative at the public hearing-- four light poles are proposed at the stadium each with 13 light-emitting diode (LED) lighting fixtures and one uplighting fixture. The submitted MUSCO Lighting plans include a Project Summary, eight (8) Illumination Summary sheets, an Equipment Layout Plan, a Pole Configuration Drawing, and an Environmental Glare Impact plan, all dated May 2016.
- B. The approved plans include four (4) light poles each eighty (80) feet high, two on each side of the Darien Stadium Field. No other field on the Darien High School property may be lit or illuminated, either temporarily or permanently. Separate review and action by the Planning and Zoning Commission is required for any such permanent or temporary lighting.
- C. As specifically authorized in CGS 7-284, the Commission hereby leaves the determination of police safety and security issues to the Darien Police Department. It will be up to the Darien Police Chief to determine the appropriate level of police presence at each event held under the lights.
- D. The Board of Education hereby has the ability to work with the Planning and Zoning Director and neighbors to move, slightly relocate, tilt, shield and/or angle the lights to find the area of least impact. The Commission encourages this type of “field adjusting” to arrive at the best

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plan. All such testing (moving, angling, tilting, etc.) shall occur shortly after the construction and installation of the lighting facilities.

- E. The Commission recommends additional bleachers with appropriate screening on the east side of Stadium Field as a possible solution to increase the shielding of the lighted field.

USE OF THE LIGHTING

F. Section II of Appendix D in the application, the applicant's Proposed Conditions for lights, are hereby incorporated and adopted by the Commission as follows:

a. Field Use When Lighting Facilities in Use:

- i. *Only DHS sports and Darien non-profit youth sports organizations shall be permitted.*
- ii. *Youth practices shall be allowed under the lights in the fall. No youth practices shall be permitted in the spring under the lights.*
- iii. *No youth games will be permitted.*
- iv. *No adult league play shall be permitted.*
- v. *DHS athletic teams must be participating in all contests played under the lights.*
- vi. *Only DHS Varsity games shall be played under the lights.*

b. Time Limitations for Lighting Facilities:

- i. *Lights shall remain off on Saturdays and Sundays with the exception of FCIAC playoff or championship games.*
- ii. *Practices and other activities shall be on Monday through Friday with lights off by 7:30 pm.*
- iii. *In the event DHS games that were appropriately scheduled to start by 4:00 p.m. (game one) and 5:30 (game two) and end by 7:30 p.m., but could not finish within the prescribed 7:30 pm time period, allowances shall be made for the completion of the game regardless of the hour of completion.*
- iv. *Lights will remain off: (a) from the end of the CIAC fall season until the beginning of the CIAC spring season; (b) from the end of the CIAC spring season to the beginning of the CIAC fall season; and (c) on the fourth of July.*
- v. *Friday night games can extend until 10 pm, unless there are extraordinary*

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circumstances such as overtime or a delay due to injury or other unforeseen issues. Each Varsity team will have the opportunity to play no more than two games per season on a Friday night exclusive of mandated playoff games.

c. *Evening Games:*

i. *Each Varsity team shall be assigned 2 regular game dates. In the fall that includes boys' and girls' soccer, field hockey and football. In the spring it includes boys' and girls' lacrosse. With each team receiving two games this totals twelve (12) "night games."*

ii. *In addition to the twelve (12) regular night games, playoff games are estimated to add an average of an additional five (5) games per year, and shall be permitted during the evening.*

d. *Lighting facilities shall be limited to Stadium Field:*

i. *No other field at the DHS property shall be lit or illuminated for evening athletic events or other activities.*

G. The lights herein are proposed for a very limited duration. Any longer duration would trigger further review by the Commission per the Darien Zoning Regulations.

H. At the public hearing, Mr. Voigt questioned if the uplighting fixtures could be independently controlled. Mr. Mahoney answered affirmatively. The Commission hereby requires that such uplighting be carefully managed to minimize impacts on neighbors, and "field adjusted" as necessary.

I. In order for the Planning & Zoning Commission to get a better understanding of how the approved lighting plan has worked, a copy of a report shall be submitted to the Planning & Zoning Office between June 15, 2018 and July 1, 2018. This basic report shall include the dates and hours the lights were used, what teams used the field, as well as any complaints or comments received, and how they were addressed. This report will also allow the Board of Education to consider what they would do or could do differently to reduce impacts to neighboring property owners, and to better understand what impacts the lights use may have had.

J. The Commission hereby requires that a post-construction photogrammetric/lumens report be submitted prior to the use of the lights for an athletic game event. This report will be used to verify that the installed lighting is consistent with the representations made by the applicant and MUSCO Lighting representative during the public hearing process.

K. The applicant has proposed, and the Commission hereby requires, that a Compliance Committee be established as outlined within the applicant's submission materials.

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- L. In their application materials, the applicant has made representations that for at least five years, from the date of any approval (which would therefore be January 17, 2017), they would not submit an application to the Planning & Zoning Commission to: a) modify any condition within this approval (unless required by law); b) install, construct, or use permanent or temporary lighting facilities at another Board of Education property, including, but not limited to the high school property. The Commission acknowledges that other applications related to the high school property or other Board of Education properties may be pursued during this five year period (from January 17, 2017-January 17, 2022).

LANDSCAPING/PLANTING

- M. The Commission notes that a line of evergreen trees was planted a few years ago along the north side of the property. These plantings contribute to the screening of the lights and will continue to grow. The existing and proposed landscaping will not completely obliterate the view of the lights from every location at all times, but the landscaping will limit and soften the potential impacts of the lights and the lighted field. An integral part of this approval is for the Board of Education to keep those trees healthy on a continuing basis, and to properly maintain trees and the planted area to eliminate overgrowth and vines. The Board of Education shall replace any plantings that die within the first year.
- N. The applicant has prepared a planting plan by a Landscape Architect, and that plan is hereby approved by the Commission, and is an integral part of this approval. No use of the lights may be made until the landscaping is fully installed pursuant to those plans.

PUBLIC ADDRESS (PA) SYSTEM

- O. The following provisions in connection with the public address (PA) system shall be applicable after sunset:
- P. As proposed by the applicant, use of the public address (PA) system shall cease by 10 p.m., unless there are extraordinary circumstances such as overtime or a delay due to injury or other unforeseen issues.
- Q. Section III of Appendix D of the applicant's Proposed Conditions for the sound system are hereby incorporated and adopted by the Commission as follows:

a. Audio Specifications:

- i. *The PA system will be permitted to be used only during DHS games on the Stadium Field. The system shall not be used during practices or scrimmages. Music over the PA system is allowable only prior to DHS games. Music is not allowable during practices. Music from the High School band incidental to the game (e.g., musical cheer on scoring), will be allowable throughout the entirety of all DHS Varsity games. However, a performance by a DHS marching band (in the event that a marching band was formed in the future) would be limited to*

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half time and/or prior to the game. Similar to the current DHS band, a marching band could play throughout the game from the bleachers. All band practice would be limited to daytime hours.

- ii. Operation of the PA system must comply with the sound pressure levels as presented by the applicant and depicted on Exhibit A-1, which is Appendix 4.4: "Sound Pressure Levels" in applicant's application material.*
- R. The granting of this Special 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. The Commission hereby confirms that any future application for light poles on this property, whether temporary or permanent, at any height, shall require subsequent review and action by the Planning and Zoning Commission.
- S. 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 these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records. Zoning and Building Permits and an Electrical Permit will be needed for the installation of the four light poles.