

**PLANNING AND ZONING COMMISSION**  
**ADOPTED RESOLUTION**  
**November 10, 2020**

Application Number: Coastal Site Plan Review #350  
Flood Damage Prevention Application #402

Street Address: 108 Five Mile River Road  
Assessor's Map #66 Lot #33

Name and Address of Applicant &:  
Property Owner: Harlan Stone  
108 Five Mile River Road  
Darien, CT 06820

Name and Address of Applicant  
& Applicant's Representative: Mark Lebow  
William W. Seymour & Associates, P.C.  
170 Noroton Avenue  
Darien, CT 06820

Activity Being Applied For: Proposal to construct an in-ground pool, including associated patio areas on the eastern portion of site (front yard), and to perform related site development activities within regulated areas.

Property Location: The 0.52+/- acre subject property is located on the west side of Five Mile River Road, approximately 100 feet north of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: October 20, 2020

Time and Place: 8:00 P.M. Room 213 (Town Hall) and via GoToMeeting (Virtual)

Publication of Hearing Notices

Dates: October 8 & 15, 2020

Newspaper: Darien Times

Date of Action: November 10, 2020

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
November 19, 2020

Newspaper: Darien Times

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

- the proposed use and activities must comply with all applicable provisions of Sections 406, 810, and 820 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.

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- 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 an in-ground pool, including associated patio areas on the eastern portion of site (front yard), and to perform related site development activities within regulated areas. The site is currently served by public water and will be connected to public sanitary sewer as part of this project.
2. The Commission finds that the pool is set back far enough from Five Mile River Road, in the front yard of the property, so as not to pose a safety hazard. The Commission further notes that fencing has been installed along the property's frontage with Five Mile River Road along with existing shrubbery in the same location. The required pool fence shall be a minimum of four (4) feet in height, and comply with the Building Code.

#### STORMWATER MANAGEMENT

3. The subject property is located within the lower 1/3 of the watershed adjacent to the Five Mile River. Currently, runoff from the property drains directly to the Five Mile River. At the public hearing, it was noted that water quality will be treated by utilizing existing pre cast galleries, previously utilized as part of the on-site septic system, as a subsurface bio-retention area. The Commission finds that there is no requirement or need to detain water and manage stormwater quantity, because of the property's location in the watershed.
4. A Site Engineering Report prepared by DiVesta Civil Engineering Associates, Inc., dated September 2020 was submitted for the record as part of the original application. Appendix 'A' of that report is the Stormwater Management Operation and Maintenance Plan. Assistant Director of Public Works Darren Oustafine sent an e-mail dated October 7, 2020 with comments on the subject application.

#### PROPOSED WORK WITHIN CAM AREA

5. The proposed pool and patios/hardscape are proposed to be more than 100 feet from Mean High Water, across Five Mile River Road, in an area which has previously been established as lawn. There is no direct waterfront on the property.
6. The Commission finds that the proposed improvements, if properly implemented, are not contrary to the goals, objectives, and policies of the Coastal Area Management Program.
7. The proposed activity as shown on the site development plan is consistent with the goals and policies in Section 22(a)-92 of the Connecticut General Statutes.
8. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

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**PROPOSED WORK WITHIN THE FLOOD ZONE**

9. The proposed improvements are partially located within the AE13 flood zone. At the public hearing, Mr. Tim Debartolomeo of Sound Engineering Associates, explained that the pool has been designed to withstand lateral movement and that there will be pressure relief ports in the pool. The pool equipment is to be located entirely outside of the flood zone, and is shown as being placed adjacent to the residence at elevation 16.0. An associated buried propane tank is also proposed south of the residence, entirely outside of the flood zone.
10. The Commission finds that the proposed work will not result in an increase of flood heights and the proposal meets or exceeds Section 825 of the Darien Zoning Regulations.
11. The Commission finds that the proposed activities as shown on the site development plan, to be implemented with the conditions listed herein, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

**NOW THEREFORE BE IT RESOLVED** that Coastal Site Plan Review #350 and Flood Damage Prevention Application #402 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the following plans submitted to and reviewed by the Commission:

**SURVEY**

- Zoning Location & Topographic Survey, 108 Five Mile River Road, Prepared for Harlan & Susan Stone by William W. Seymour & Associates, P.C., dated September 2, 2020.

**SITE PLAN**

- Sheet 1 of 1, Proposed Site Development Plan, Stone Residence, 108 Five Mile River Road, Darien, Prepared by DiVesta Civil Engineering Associates, Inc., dated September 24, 2020, last revised 9/24/20.

**LANDSCAPE PLAN**

- Sheet 1, Pool Project, Stone Residence 108 Five Mile River Road, Darien, Prepared by Jennifer Anderson Design & Development, dated September 9, 2020.

The Commission notes that the submitted landscaping plan is generic. The Commission is thus requiring that a final landscaping plan be submitted to the Planning & Zoning office prior to the issuance of a Zoning and Building Permit for construction of the improvements.

- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition 'A', above, including, but not limited to silt fencing, and an anti-tracking pad for construction access from Five Mile River Road, and any additional 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 the construction of the improvements and until the area has been revegetated and restabilized. The Planning and Zoning Department shall be notified prior to the commencement of work and immediately after the sedimentation and

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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.

**STORMWATER MANAGEMENT**

- C. Because the proposed improvements are located within the bottom 1/3 of the watershed and are across the street from the Five Mile River, the Commission hereby waives the requirement of Section 880 of the Regulations relative to stormwater runoff quantity. Only water quality shall be addressed as part of this application.

**PERMITS REQUIRED**

- D. The granting of this Permit does not relieve the applicant of the responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirements for:
1. Zoning and Building Permits for the proposed pool;
  2. A Sewer Connection Permit from the Public Works/Sewer Services Department
  3. A Street Opening Permit from DPW for any work in the Five Mile River Road right-of-way, including, but not limited to, the anti-tracking pad installation.

**PRIOR TO ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE**

- E. Prior to the request for the Certificate of Zoning Compliance for the proposed improvements, the applicant shall submit the following:
1. A final “as built” map and/or other evidence that all improvements (including the pool and the associated at-grade bluestone patios) have been properly completed in accordance with the approved plans, and comply with zoning setback and flood zone requirements.
  2. Certification that the pool equipment has been placed at or above the flood elevation (elevation 13.0), or outside of the flood zone.
  3. As recommended in Mr. Oustafine’s October 7 e-mail, the Commission hereby requires that the as-built survey/drawing prepared by licensed land surveyor or certified by registered professional engineer show all utilities or buried infrastructure installed as part of this land use proposal. The as-built survey/drawing shall include measurements from known, permanent, and visible surface features so that buried infrastructure can be located in the field in the future; and
  4. A letter 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.
- F. 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.
- G. This permit shall be subject to the provisions of Sections 815 and 829(f) of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (November 10, 2021). This time limit may be extended as per Sections 815 and 829(f) of the Regulations.

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All provisions and details of the plans, as approved, 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 Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning and Building Permit for the pool.

*Pzc\resolut\108 Five Mile River Rd.*