

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 10, 2020

Application Number: Land Filling & Regrading Application #488

Street Address: 97 Fitch Avenue
Assessor's Map #42 Lot #8

Name and Address of Property Owners: Terence & Lidiya Filewych
35 W. Broad Street, #43
Stamford, CT 06902

Name and Address of Applicant: Andy Soumelidis
& Applicant's Representative: LandTech
518 Riverside Avenue
Westport, CT 06880

Activity Being Applied For: Proposal to regrade the west portion of the property to accommodate a new patio area, and to perform related site development activities, including construction of a retaining wall and installation of stormwater management.

Property Location: The 0.26+/- acre subject property is located on the west side of Fitch Avenue, at the northwest corner formed by its intersection with Boston Post Road.

Zone: R-1/3

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: APPROVED WITH CONDITIONS

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 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 use and activities are described in detail in the application narrative, 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 regrade the west portion and southeast corner of the property, and to level an area behind the house to accommodate a new at-grade patio, and to perform related site development activities, including construction of retaining walls and installation of stormwater management. The replacement residence now under construction will be served by public water and public sewer. The submitted plans show the location of the house now under construction as well as the proposed HVAC units. The proposed at-grade patio, eight feet from the north and west property lines, and its associated grading, are part of the subject application.
2. The proposed plans show a number of retaining walls, fences atop retaining walls, and new plantings. At the public hearing, Planning & Zoning Director Jeremy Ginsberg noted the importance of complying with Section 363 of the Zoning Regulations relative to plantings and fences within thirty (30) feet of the intersection of Boston Post Road and Fitch Avenue. Section 362 of the Regulations limit fences and walls within the front yard setback area, and along the front yards of both Boston Post Road and Fitch Avenue, fences and walls may only be a maximum of four (4) feet high. This excludes the area within 30 feet of the intersection, in which fences/walls and plantings must comply with Section 363 of the Zoning Regulations, only allowing a maximum height of three (3) feet.
3. The applicant proposes an eight foot high fence along a portion of the western property line. It is noted that Section 362 of the Zoning Regulations do allow the construction of an eight foot high fence adjacent to a Special Permit use. The adjacent Fire Department building is a Special Permit use, so an eight foot fence may be installed there, as long as it is behind the front yard setback from Boston Post Road.

STORMWATER MANAGEMENT

4. A Stormwater Management Report prepared by LandTech, dated March 26, 2019 and revised September 11, 2020, was submitted for the record as part of the application. Comments on the application were received from Assistant Director of Public Works Darren Oustafine in an October 7, 2020 e-mail. The direction of water flow is not changing as part of this proposal, it will still flow from north to south towards Boston Post Road.
5. At the public hearing, it was noted that a stormwater management system, consisting of underground recharger units on the south side of the property has been installed to address the stormwater from the proposed new residence and related improvements.
6. The submitted stormwater analysis shows that the drainage patterns and peak rates of runoff from the studied storms will remain largely unchanged in the post development condition.
7. The Commission finds that if implemented properly, the proposed site development activities will have no adverse impacts to adjoining property owners or downstream drainage systems.

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SPECIAL PERMIT FINDINGS

8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
9. 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 & Regrading Application #488 is hereby modified and approved subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Regrading, fences, plantings, construction of the patio, and other site development activity shall be in accordance with the following plans submitted to and reviewed by the Planning & Zoning Commission:

ENGINEERING PLANS

Plans generally entitled “Site Improvements for a Single Family Residence”, Terence Filewych, 97 Fitch Avenue, Darien, Prepared by LandTech, dated October, 23, 2019.

- Sheet C-1, Site Plan, last revised October 9, 2020;
- Sheet C-2, Notes and Details, last revised September 11, 2020.

- B. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.

STORMWATER MANAGEMENT

- C. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the start of the proposed regrading work.

SEDIMENT & EROSION CONTROLS

- D. During construction, the applicant shall install the proposed silt fence and anti-tracking pad as shown on the submitted Site Plan and Notes and Details Plan 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 the construction and until the area has been revegetated or restabilized.
- E. 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. Zoning and Building Permits have already been obtained for the new house foundation, and for work above the foundation. The property owner shall contact the Building Official to determine if separate permits are needed for the proposed retaining wall(s) shown on the submitted plans. If the Building Official requires a Zoning & Building Permit for the retaining wall(s), that permit shall be obtained before work commences.
- F. Prior to the issuance of a Certificate of Occupancy (CO) for the new residence, the applicant shall submit the following:

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1. An as-built survey from a licensed land surveyor, with one foot contours, showing that all aspects of the grading in the yard have been completed pursuant to the plans in Condition A, above. This shall show any fences, plantings, and walls in the 30 foot intersection area near Fitch Avenue and Boston Post Road; and
 2. 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
 3. 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.
- 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 this permit as it deems appropriate.
- H. 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 by November 10, 2021. This may be extended as per Sections 858 and 1009.

All provisions and details of the plans, as approved herein, 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. Within ninety (90) days of this action, AND prior to the start of the proposed regrading, a Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records or this approval shall become null and void.