

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
FEBRUARY 10, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Voigt, Sini, Jr.

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Town Plan of Conservation & Development.

Discussion of conservation, cultural and historic resource related issues. Public input is welcome and encouraged.

Planning Consultant Glenn Chalder reviewed Booklet #4. He noted that this is not a draft chapter of the Plan, but it is merely a very rough discussion starter that will assist the public and the Commission to get ideas for the Plan of Conservation and Development. Issues of water quality standards and water quantity management were discussed. Mr. Chalder said that the Town has a Drainage Manual that is very good and is being implemented and slightly improved upon. There was discussion about the possibility of extending the total site developed area limitations that are currently applicable in business zones to also becoming applicable in residential zones. This will help to regulate water quantity and flood management. Mr. Chalder noted that coastal resources are an integral part of Darien's character and that the State legislature has pending before it a bill which would start the process of creating a Long Island Sound Plan of Management.

Commission members discussed Open Space maintenance and acquisition. It was noted that funding for acquisition of open space should be established in advance so that decisions on available parcels can be made in a timely manner. A variety of other topics were discussed. It was noted that the Planning & Zoning Commission will meet with the Board of Selectmen on Monday, March 9th and the next discussion with Mr. Chalder will be on March 10th. At that time, the discussion will start with Page 26 in Booklet #4.

At about 9:15 p.m., Chairman Cameron then read the following agenda item:

Remainder of General Meeting

Election of Officers

It was decided to postpone election of officers until all the members of the Commission could be present.

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Chairman Cameron read the following agenda item:

Public Comment Session—first meeting of each month

Opportunity for the general public to present comments to the Commission on topics or items which are not pending applications.

There were no comments from the public regarding any matters that were not on the agenda.

Chairman Cameron then read the following agenda item:

Amendment of Special Permit #109-D, The Depot, 25 Heights Road.

Request for a one-day spring fundraiser. The event would be outside in the Noroton Heights Railroad parking lot on a Sunday in April or May 2015.

The Depot is planning to have a Vendor Fair in the Depot and in the adjacent parking lot for one day, either April 26th or May 3rd. A number of food trucks will be present.

Commission members reviewed the plans and the other aspects of the request. The following motion was made: That the Commission amend the Special Permit to allow the Depot to have the one day Vendor Fair in 2015 in accordance with the submitted materials. The motion was made by Mr. DiDonna, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #50-C, Flood Damage Prevention Application #39-C, Land Filling & Regrading Application #271, Eppley, 6 Contentment Island Road.

Request for re-approval of pool, or determination that public hearing will be required.

Commission members reviewed the submitted materials. Mr. Ginsberg explained that the application for the multi-aspect project had been approved by the Commission and two years were authorized for the completion of all aspects of the project. Unfortunately, that two year time period has lapsed and the applicant still wishes to move forward with the pool modifications.

Commission members noted that the swimming pool would be in virtually the same location, but the new pool would be smaller than what had previously been approved.

Mr. Cunningham said he saw no environmental or other issues regarding the project. Other Commission members agreed.

The following motion was made: That the Commission authorize the re-approval of the project subject to the original conditions and stipulations, provided the project is completed within one year of this approval date. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved.

At about 9:20 P.M., Chairman Cameron then read the following agenda item:

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BMW of Darien, 136-140 Ledge Road.

Discussion regarding potential request to install parking devices/lifts in the rear portion of the lot.

Attorney Wilder Gleason said that BMW has 34 service bays and the national standard for BMW dealerships is that they should have at least 6 parking spaces for each service bay. He said that the existing BMW dealership in Darien has no additional land that it could acquire in order to create additional parking spaces. He said that they currently lease approximately 30 parking spaces from the adjacent Whole Foods Store when that store does not need them. That allows at least 30 of the BMW employees to park off-site. The proposal is to install a series of rack type structures to allow each parking space to have two vehicles stored in that area. One vehicle would be at ground level and the second vehicle would be elevated on the rack or lift. He said that if a sedan is parked in the upper level, the top of that vehicle would only be 10 feet 6 inches tall. If SUVs are stored in the rack, then the top of the vehicles would be 11 to 12 feet above the ground. He submitted photographs of similar racks or lift type structures at other locations.

Attorney Gleason said that 100 to 120 racks or lifts would be installed to increase the available on-site parking. He said that the adjacent Middlesex Commons condominiums have an 8 foot high privacy fence located on the boundary line and that the fence is on ground which is higher than the BMW parking area.

Charles Napolitano of BMW of Darien said that customer demand has changed, and this requires more on-site parking spaces. He said that they currently have a fleet of 50 vehicles that are loaned to customers who have dropped off vehicles for service. He said that they are considering expanding that fleet to 80 automobiles. He said that one problem is that customers don't always come back for their vehicle when it is repaired and ready, and this requires the vehicles to be stored on-site. He said that he very much wants to keep service of vehicles on the site rather than shuffling those vehicles to other sites in adjacent communities. He said that they need 120 additional on-site parking spaces, but there is no land that they can acquire to expand their parking lot.

Larry Davidoff, General Contractor for BMW, said that these simple racks or lifts must each be adjacent to an access lane that will be kept open. This way they will only need to move one vehicle in order to get at the upper vehicles. He said that one, small hydraulic pump will provide enough power for 15 of the lifts. In response to questions, he said that the expected life span of the lift is 12 to 15 years.

Attorney Wilder Gleason said that from the second floor of the nearby residential units, one could look out onto the existing parking lot. He said that he will discuss the project with the neighbors before any application is submitted to the Commission, but he needs to know the direction that the Commission wishes him to proceed. He said that BMW fully expects to have a public hearing before any action is taken by the Town. He suggested that one option would be to amend the Zoning Regulation to allow this type of storage rack for parking spaces subject to Special Permit approval and certain limitations regarding location and height and other aspects. Another option would be to have the Commission determine that the lift is not a structure and therefore would not count as building coverage or building setback limitations. He said that a third option would be to apply to the Zoning Board of Appeals for a variance, but he said it would be extremely difficult for

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him to demonstrate a hardship related to the land and he knows that the Zoning Board of Appeals is very reluctant to grant building coverage variances.

Mr. Davidoff said that the lift units do not require any foundation, but they do need to be spiked into the ground so that they will not shift or move while in operation.

Mr. Napolitano said that their experience indicates that they need 190 parking spaces for vehicles being serviced, another 40 parking spaces for the storage and display of pre-owned automobiles, another 90 parking spaces needed for cars to be loaned to customers dropping off their own vehicle for service, and 96 parking spaces for employees. He said in addition to all of those spaces, they need parking spaces for new car inventory. He said that a location on Route 1/Westport Avenue in Norwalk (Garavel Chrysler Jeep--just beyond Stew Leonard's) has some of the lifts/racks and the Commission can visit that site. He noted that Matt Cosgrove is the General Manager of the Darien BMW location and the Commission members can visit the site to see the existing parking arrangement and the relationship of the site to the neighboring properties.

The Commission members agreed that they will think about the matter and will get back to Attorney Gleason with some thoughts on how to address this matter.

At about 9:50 P.M., Chairman Cameron read the following agenda item:

Special Permit Application #188-B(2)/Site Plan, Darien High School, High School Lane.

Acknowledge receipt of written reports from the Board of Education and DJFL on the use of temporary portable lights at the High School Stadium Field.

Commission members acknowledged receipt of the report regarding the temporary, portable lights at the High School.

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. Sini, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion, deliberation and possible decisions on the following applications:

Special Permit Application #284/Site Plan, Cellco Partnership d/b/a Verizon Wireless, 1926 Boston Post Road. Proposing to install two panel-type antennas inside the existing cupola on the roof of the Darien Book Aid building, and to perform related site development activities.

Commission members reviewed the draft Resolution. The following motion was made: That the Commission adopt the Resolution to adopt the application subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not been present for the public hearing. Mr. DiDonna said that he had watched the DVD/recording of the preceding meetings and, therefore felt comfortable voting on these applications.

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The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Special Permit Application #284/Site Plan

Street Address: 1926 Boston Post Road
Assessor's Map #51 Lot #38

Name and Address of Applicant: Cellco Partnership d/b/a Verizon Wireless
Attn: Sandy Carter
99 East River Drive
East Hartford, CT 06108

Name and Address of Applicant's Representative: Kenneth C. Baldwin, Esq.
Robinson & Cole, LLP
280 Trumbull Street
Hartford, CT 06103

Name and Address of Property Owner: Darien Book Aid, Inc.
1926 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to install two panel-type antennas inside the existing cupola on the roof of the Darien Book Aid building, and to perform related site development activities.

Property Location: The subject property is located on the south side of Boston Post Road approximately 150 feet west of its intersection with Ring's End Road.

Zone: NB

Date of Public Hearing: January 27 & 29, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: January 16 & 23, 2015 Newspaper: Darien News

Date of Action: February 10, 2015 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: February 20, 2015 Newspaper: Darien News

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

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- the proposed use and activities must comply with all provisions of Sections 600, 950, 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 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 install two panel-type antennas inside the existing cupola on the roof of the Darien Book Aid building, and to perform related site development activities. Equipment will be in the attic of the building.
2. At its meeting on November 18, 2014, the Darien Architectural Review Board approved with a condition the proposal as part of ARB #32-2014. That approval, which requires that the proposed RF transparent flat infill panels be replaced with one louvered panel per side, is hereby incorporated by reference.
3. No generator is proposed to be installed as part of this application. There will be battery back-up for the antenna system.
4. Use of an existing structure, rather than erecting a tower or large structure, is the preference expressed in Section 950 of the Darien Zoning Regulations.
5. According to the submitted report, the Radio Frequency (RF) emissions from the antennas, as proposed, comply fully with all Federal standards. The antennas will comply with all Federal standards.
6. 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.
7. 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.
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.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #284/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the antennas and equipment shall be in accordance with the plans entitled:
 - Verizon Wireless, Darien South 1926 Boston Post Road, dated 10/29/14 and last revised 11/25/14, Sheets T-1 (Title Sheet) and Z-2 (Partial Site Plan, Elevation & Ant. Configuration).
- B. RF emission testing under full power shall be conducted within 30 days of the antennas becoming operational. Actual instrument measurements of the signal shall be taken at the same locations as the chart presented in the application once the antennas are “on-air”. Within fourteen days of the test results, they shall then be filed with the Planning and Zoning Department, along with a statement from an independent qualified inspector that these are the actual emission signal levels measured on a clear day, and that they fall within FCC requirements. The RF emissions shall comply at all times with all applicable FCC standards.
- C. Due to the Commission’s policy to encourage co-location, the lessor cannot give Verizon Wireless exclusive rights to situate antenna(s) in this location.
- D. Because the antennas are within an existing building, the Commission hereby waives the requirement for posting of a bond.
- E. An as-built certification shall be submitted upon completion of construction, per Section 953.9 of the Darien Zoning Regulations.
- F. As explained by the applicant, the antennas and their emissions will not cause any electro-magnetic, radio, telephone or TV interference, nor shall it interfere with the structural integrity of the existing building.
- G. A detailed procedure to deal with complaints about interference with radio, telephone, television and other consumer electronic equipment shall be developed by Verizon Wireless and submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That Complaint Procedure shall also be filed with the Selectmen’s Office. The purpose of this procedure is that citizens will have a contact person at Verizon Wireless and prompt action will be taken by Verizon Wireless to remedy any interference caused by, or reasonably attributed to, the communications system.
- H. A detailed procedure to address issues related to construction activity, property maintenance or the timing or number of employee visits to the site shall be prepared by Verizon Wireless and the property owner, Darien Book Aid. The procedure shall be submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That Procedure shall also be filed with the Selectmen’s Office. The purpose of this procedure is that citizens will have a contact person at Darien Book Aid and/or Verizon Wireless and prompt action will be taken by Darien Book Aid and/or Verizon Wireless to remedy any problems relative to the construction activities, to property maintenance, or to employee visits. As noted within the application

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materials, the site shall be visited on the average of once a month for periodic maintenance by Verizon Wireless employees, and will be continuously monitored from off-site at all times.

- I. This permit will last for the extent of the lease. If, however, during the term of the lease, or any renewal thereof, the operation of the facility creates electro-magnetic, radio, telephone or television interference problems, Verizon Wireless shall immediately take all steps necessary to correct and eliminate any interference. If such interference cannot be eliminated within forty-eight hours after receipt of written notice of existence of such interference, Verizon Wireless shall discontinue use of the equipment. If repeated interference problems occur which the Commission deems unacceptable, the Commission reserves the right to review, and if appropriate after notice and hearing, terminate this Special Permit.
- J. If the telecommunications facility ceases operations at Darien Book Aid or is abandoned by Verizon Wireless, Verizon Wireless shall immediately notify the Planning and Zoning office. Within 30 days of ceasing operation, Verizon shall submit a plan for both removing their equipment and assuring the structural stability of the cupola, certified by a licensed engineer and approved by the Planning & Zoning Director. Verizon Wireless shall also remove all antennas and all related equipment, and notice thereof shall be furnished to the Planning and Zoning Commission upon completion of same.
- K. The Commission acknowledges that this structure may be considered in the future by other telecommunications carriers. The Commission strongly recommends that future carriers locate their antennas behind the proposed RF Transparent screening material.
- L. 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.
- M. 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. This includes the requirement for a Zoning and Building Permit for the antennas and related cupola work.
- N. 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 (February 10, 2016). This may be extended as per Section 1009.

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 documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Commission, and a Special Permit form filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

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Coastal Site Plan Review #284-A, Flood Damage Prevention Application #344, Steven & Maeve Zamsky, 66 Five Mile River Road. Proposing to install footings and steps to a new pier, ramp, and float; and a buried electric line; and perform related site activities within regulated areas.

Commission members reviewed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not been present for the public hearing. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Coastal Site Plan Review #284-A
Flood Damage Prevention Application #344

Street Address: 66 Five Mile River Road
Assessor's Map #66 Lot #49 & #13

Name and Address of
Property Owners: Steven & Maeve Zamsky
66 Five Mile River Road
Darien, CT 06820

Name and Address of
Applicant and
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to install footings and steps to a new pier, ramp, and float; and a buried electric line; and perform related site activities within regulated areas.

Property Location: The subject property is located on the east side of Five Mile River Road approximately 900 feet south and east of its intersection with Old Farm Road.

Zone: R-1/2

Date of Public Hearing: January 27 & 29, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: January 16 & 23, 2015 Newspaper: Darien News

Date of Action: February 10, 2015 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News

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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, 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 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 install a boardwalk, ramp, and float and perform related site development activities within regulated areas. A portion of this work is in State of Connecticut DEEP jurisdiction, and a portion is within Darien Planning and Zoning Commission jurisdiction. As part of this project, some invasive species will be removed, as well as twelve trees. The existing fence will be replaced/repared, and new plantings installed.
2. The State of Connecticut DEEP has issued a permit for the proposed work within their jurisdiction—Permit #201306148-KB on November 14, 2014. The Army Corps of Engineers has also approved the project on November 18, 2014.
3. The Darien Environmental Protection Commission (EPC) approved this project on January 7, 2015 as part of EPC 32-2014. That approval is hereby incorporated by reference.
4. 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.
5. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
6. 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.
7. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.

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8. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
9. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. 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 Coastal Site Plan Review #284-A and Flood Damage Prevention Application #344 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zamsky Residence--Facility Repairs & Improvements” Sheets 1-12, prepared by Roberge Associates, LLC and dated 11/20/13 and 2/3/14.
 - “Planting Plan Zamsky Residence” 66 Five Mile River Road, by Environmental Land Solutions, LLC, dated December 19, 2014, Drawing No. P.1.
- B. Because of this property’s location adjacent to Long Island Sound, the Commission hereby waives the requirement for a drainage report and analysis.
- C. All contractor parking shall be on the Zamsky property (on the west side of Five Mile River Road) or alongside Five Mile River Road to the south of 66 Five Mile River Road. This parking restriction is required to increase safety for vehicles coming around the curve on Five Mile River Road, which is just to the north of the Zamsky property.
- D. Once the project is complete, and prior to February 10, 2016, the applicant shall submit a final certification, including photographs from the applicant, that all work, including the required plantings, has been properly completed in accordance with the approved plans.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, 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 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.
- F. 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.
- 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.

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H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 10, 2016). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan as approved 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.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #110-D, Flood Damage Prevention Application #98-D, Brenda Thompson, 33 Searles Road. Proposal to expand a terrace and move an existing walkway and perform related site development activities within regulated areas.

Mr. DiDonna recused himself in order to avoid any perception of a possible conflict of interest. He left the meeting room. The Commission members discussed the draft Resolution. The following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Sini. All voted in favor except Mr. Cunningham who did not vote because he had not attended the public hearing and Mr. DiDonna who was not in the meeting room at the time.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Coastal Site Plan Review #110-D
Flood Damage Prevention Application #98-D

Street Address: 33 Searles Road
Assessor's Map #67 Lot #48 & #49

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner: Brenda Thompson
33 Searles Road
Darien, CT 06820

Activity Being Applied For: Proposal to expand a terrace and move an existing walkway and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Searles Road approximately 300 feet south of its intersection with Edgehill Drive.

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Zone: R-1

Date of Public Hearing: January 27 & 29, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices

Dates: January 16 & 23, 2015

Newspaper: Darien News

Date of Action: February 10, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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, 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 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 expand a terrace and move an existing walkway and perform related site development activities within regulated areas.
2. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
3. 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.
4. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
5. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

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6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #110-D and Flood Damage Prevention Application #98-D are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Rear Porch Plan Comparison, Alterations to the Thompson Residence 33 Searles Road, by Austin Patterson Disston Architects, date 11/3/2014.
 - Patio Plan Comparison, Alterations to the Thompson Residence 33 Searles Road, by Austin Patterson Disston Architects, date 11/3/2014.
- B. Prior to construction, the applicant shall prepare a sediment and erosion control plan and submit it to the Planning and Zoning Office for final review by the Director. 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.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- D. Due to this property's location directly adjacent to a tidally-influenced lagoon which flows into Long Island Sound, the Commission waives the requirement for stormwater management.
- E. Once the project is complete, and prior to February 10, 2016, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans.
- F. 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.
- 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 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 10, 2016). This may be extended as per Sections 815 and 829f.

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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 documents by the Chairman.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #304, Flood Damage Prevention Application #345, Eleven Baywater Drive LLC, 11 Baywater Drive. Proposal to construct additions and alterations to the existing residence; install HVAC units on a platform; and perform related site development activities within regulated areas.

Mr. DiDonna returned to the meeting. The Commission members discussed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who had not attended the public hearing. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Coastal Site Plan Review #304
Flood Damage Prevention Application #345

Street Address: 11 Baywater Drive
Assessor's Map #55 Lot #101 & #102

Name and Address of Applicant & Applicant's Representative: Lance Zimmerman, AIA
14 Cliffview Ave
Norwalk, CT 06850

Name and Address of Property Owner: Eleven Baywater Drive LLC
c/o 17 Holly Lane
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing residence; install HVAC units on a platform; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Baywater Drive approximately 25 feet east of its intersection with Waverly Road.

Zone: R-NBD

Date of Public Hearing: January 20, 2015 continued to February 3, 2015

Time and Place: 8:00 P.M. Rooms 206 and 119 Town Hall

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Publication of Hearing Notices

Dates: January 9 & 16, 2015

Newspaper: Darien News

Date of Action: February 10, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 410, 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 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 construct additions and alterations to the existing residence; install HVAC units on a platform; and perform related site development activities within regulated areas. The existing garage will be removed, and a new larger garage/boat storage area and house addition constructed in its place. This will be an oversized garage, and allow for a boat(s) to be taken out of the back of the garage and brought to the water. The garage will have flood vents. The Base Flood Elevation (BFE) in the area is 14 feet above NAVD 1988. Two HVAC compressor units will be installed on a platform at elevation 14.0 on the west side of the house.
2. As part of this application, utilities will be removed from the basement. There will be a wall hung furnace and hot water heater in the garage at or above elevation 14.0, and other mechanicals/utilities will be placed in the first floor of the house. The total cost of all the proposed improvements is represented to be less than 50% of the value of the structure, thus the proposed work is not a 'substantial improvement' and the Regulations do not require that the entire structure be brought into compliance with the Flood Damage Prevention regulations at this time.
3. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
4. 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.

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5. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
6. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
7. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #304 and Flood Damage Prevention Application #345 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Site Plan prepared for Eleven Baywater Drive, LLC, #11 Baywater Drive, prepared by LBM Engineering, LLC, scale 1"=20', December 16, 2014.-
 - Cornacchia Residence 11 Baywater by Zimmerman Architecture, various dates, Drawing No. A1 through A5.
 - Property Survey 11 Baywater Drive prepared for Eleven Baywater Drive LLC, by William W. Seymour & Associates, last revised January 5, 2015.
 - The Property Survey shall be revised to reflect the correct Lot number in the top right corner.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Site Plan" in Condition A, above, 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 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.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond. However, at the time when the Zoning Permit is applied for, the applicant shall provide a detailed cost estimate of all proposed work and improvements to the structure. The total cost of all the proposed improvements is represented to be less than 50% of the value of the structure, thus the proposed work is not a 'substantial improvement' and the Regulations do not require that the entire structure be brought into compliance with the Flood Damage Prevention regulations at this time. If the total cost of improvements to the structure at this time and for the next three years following the Certificate of Occupancy for these improvements, exceeds 50% of the value of the structure, then the work would be a 'substantial improvement' as defined by the Regulations, and the entire structure must be brought into compliance with all flood damage prevention requirements.

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- D. Due to this property's location directly adjacent to Long Island Sound, the Commission waives the requirement for stormwater management. The applicant's engineer has proposed Cultec units in the back yard to address water quality.
- E. By April 10, 2015, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office, which requires the property owner and all subsequent property owners of 11 Baywater Drive to maintain the subsurface detention systems, and will alert future property owners of 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 the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed work.
- F. Once the project is complete, and prior to February 10, 2016, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans, including, but not limited to the elevation of the HVAC units.
- G. 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.
- H. 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.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 10, 2016). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as required to be revised 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. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #341, J. Scott Lesko, 16 West Elm Street. Proposing to regrade the back and side yards and install stormwater management in association with additions and alterations to the existing residence, and to perform related site development activities.

Commission members discussed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. DiDonna. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

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Application Number: Land Filling & Regrading Application #341

Street Address: 16 West Elm Street
Assessor's Map #21 Lot #171

Name and Address of:
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates
51 Painter Ridge Road
Roxbury, CT 06873

Name and Address of Applicant &:
Property Owner: J. Scott Lesko
16 West Elm Street
Darien, CT 06820

Activity Being Applied For: Proposing to regrade the back and side yards and install stormwater management in association with additions and alterations to the existing residence, and to perform related site development activities.

Property Location: The subject property is located on the south side of West Elm Street approximately 400 feet west of its intersection with Noroton Avenue.

Zone: R-1/3

Date of Public Hearing: January 20, 2015 continued to February 3, 2015

Time and Place: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices
Dates: January 9 & 16, 2015 Newspaper: Darien News

Date of Action: February 10, 2015 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: February 20, 2015
Newspaper: Darien News

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, 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 back and side yards and install stormwater management in association with additions and alterations to the existing residence, and to perform related site development activities. The property is now sloping, and the filling and regrading will make the back yard more level. As part of this work project, the applicant will be abandoning the on-site septic system and tying into the Town's sanitary sewer system.
2. The applicant is addressing stormwater management via underground infiltrators on-site and a level spreader as an emergency overflow outlet.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. 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 #341 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey #16 West Elm Street prepared for J. Scott Lesko, by William W. Seymour & Associates, dated June 17, 2014 and last revised December 23, 2014.
 - Lesko Residence 16 West Elm Street Proposed Site Plan by DiVesta Civil Engineering Associates, Inc., dated 12/17/14 and last revised 12/29/14, Sheet 1 of 1.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Proposed Site Plan" in Condition A, above, 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 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.
- C. A Drainage Maintenance Plan was submitted to the Planning and Zoning Office in Appendix A of the submitted "Site Engineering Report" dated December 2014. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 16 West Elm Street to maintain the subsurface detention systems, and will alert future property owners of 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 the next 60 days of this

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approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed house addition.

- D. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the house addition, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- E. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the addition or February 10, 2016 (whichever comes first), the applicant shall submit a final certification, including photographs from the applicant, that all work has been properly completed in accordance with the approved plans.
- F. 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. A Sewer Connection Permit from Darien Sewer Services and a permit to abandon the existing on-site septic system from the Health Department.
- 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 year of this action (February 10, 2016). This may be extended as per Sections 858 and 1009.

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 documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the house addition.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #342, John Gallagher & Meredith Re, 18 Raymond Heights. Proposing to fill and regrade the property and install stormwater management in association with the construction of a replacement single-family residence, and to perform related site development activities.

Commission members discussed the possible blasting and/or hoe ramming of the rock in order to make way for the foundation and the site development. Several clarifications of the Resolution were discussed and agreed upon. The following motion was made: that the Commission approve the following Resolution to approve the project subject to the conditions and stipulations as noted.

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The motion was made by Mr. Voigt and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Land Filling & Regrading Application #342

Street Address: 18 Raymond Heights
Assessor's Map #36 Lot #126-1

Name and Address of:
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates
51 Painter Ridge Road
Roxbury, CT 06873

Name and Address of Applicant &:
Property Owner: John Gallagher & Meredith Re
18 Raymond Heights
Darien, CT 06820

Activity Being Applied For: Proposing to fill and regrade the property and install stormwater management in association with the construction of a replacement single-family residence, and to perform related site development activities.

Property Location: The property is situated on the east side of Raymond Heights approximately 315 feet north of its intersection with Raymond Street.

Zone: R-1/5

Date of Public Hearing: January 20, 2015 continued to February 3, 2015

Time and Place: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices

Dates: January 9 & 16, 2015 Newspaper: Darien News

Date of Action: February 10, 2015 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: February 20, 2015 Newspaper: Darien News

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.

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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 fill and regrade the property and install stormwater management in association with the construction of a replacement single-family residence, and to perform related site development activities.
2. The Zoning Board of Appeals approved this project as part of ZBA Calendar #58-2014. That approval is hereby incorporated by reference.
3. In response to comments received from the Public Works Department Town Engineer, the plans and the Engineering Report were revised to incorporate his comments. The applicant is addressing stormwater management via underground infiltrators/Cultec rechargers on-site.
4. Because of the presence of on-site ledge and rock, either hoe-ramming or blasting will need to be done. At the public hearing on February 3, 2015, the Commission noted its concern with the potential impacts of hoe-ramming on neighbors. The applicant's representative noted that if hoe-ramming needs to be done, then two weeks for said work should be sufficient.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 #342 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location & Topographic Survey 18 Raymond Heights prepared for Meredith Re, scale 1"=10', by William W. Seymour & Associates, dated December 3, 2013.
 - Gallagher Residence 18 Raymond Heights, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., dated 11/12/14, and last revised 12/29/14.
- B. Due to the minor nature of the filling and regrading associated with this project, the Commission hereby waives the requirement for a performance bond.

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- C. Due to the potential impacts of any necessary hoe-ramming, the Commission hereby limits all hoe-ramming on this project to a total of 14 consecutive work days between the hours of 8:00 a.m. and 3:30 p.m. The owner, contractor or engineer shall notify the Planning and Zoning Office on days which hoe-ramming is to occur. If all ledge/rock removal cannot be accomplished in the 14 consecutive work days of hoe-ramming, then blasting shall be done, or the applicant shall return to the Commission for a possible modification of this approval.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Proposed Site Plan" in Condition A, above, 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 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.
- E. A Drainage Maintenance Plan was submitted to the Planning and Zoning Office in Appendix A of the submitted "Site Engineering Report" dated January 2015. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 18 Raymond Heights to maintain the subsurface detention systems, and will alert future property owners of 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 the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed replacement house.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the new house, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- G. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the new house or February 10, 2016 (whichever comes first), the applicant shall submit a final certification, including photographs from the applicant, that all work has been properly completed in accordance with the approved plans.
- H. 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. A Sewer Connection Permit from Darien Sewer Services is required. If any blasting is to be done, a permit is needed from the Fire Marshal.
- I. 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.

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J. 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 year of this action (February 10, 2016). This may be extended as per Sections 858 and 1009.

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 documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the replacement house.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #303, Land Filling & Regrading Application #339, Thomas & Sophie Murphy, 68 Salem Straits. Proposal to: construct a new pool house with terrace; construct gravel access driveway off of Peabody Lane; install associated stormwater management; and to perform related site development activities within a regulated area.

Commission members discussed the draft Resolution. Several modifications and clarifications were agreed upon. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Coastal Site Plan Review #303
Land Filling & Regrading Application #339

Street Address: 68 Salem Straits
Assessor's Map #62 Lot #61 & #66

Name and Address of
Applicant and:
Applicant's Representative: Paulo Vicente
Vicente Burin Architects, LLC
200 Carter Henry Drive
Fairfield, CT 06824

Name and Address of
Property Owner: Thomas & Sophie Murphy
68 Salem Straits
Darien, CT 06820

Activity Being Applied For: Construct a new pool house with terrace; construct gravel access driveway off of Peabody Lane; install associated stormwater management; and to perform related site development activities within a regulated area.

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Property Location: The subject property is located on the north side of Salem Straits approximately 425 feet northeast of its intersection with Candlewood Lane.

Zone: R-1

Date of Public Hearing: January 27 & 29, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices

Dates: January 16 & 23, 2015

Newspaper: Darien News

Date of Action: February 10, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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, 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, 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 construct a new pool house with terrace; construct gravel access driveway off of Peabody Lane; install associated stormwater management; and to perform related site development activities within a regulated area. The plans show that the existing tree house and shed on the property will be removed as part of this project. The subject property is 1.59 acres in an R-1 Zone.
2. The proposed pool house, which is planned on being used year-round, will be sited on ledge outcropping at elevation 49.0. The pool house will be approximately 977 square feet, and contain a bathroom, office and great room. The great room will have a microwave, dishwasher, sink and refrigerator. The pool house is an accessory use to the existing single family house on the property. Only one residence / dwelling unit is allowed on a property. No one can live in the pool house. The pool house cannot be used as an apartment or a residence or a dwelling unit. It will be served by a new gravel driveway off of Peabody Lane, which is a private road. The pool house with associated flagstone terrace will have solar panels on the roof, and be on a slab, not a crawl

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space or basement. This will minimize the extent of excavation and regrading. It will have one floor and attic with pull down stairs for access. In response to a question at the public hearing, the architect noted that the pool house will be 22 feet to the ridge of the roof.

3. At the public hearing, the property owner's contractor explained that hoe-ramming and/or on-site blasting will be required to implement this plan. He explained that hoe-ramming could take up to seven days for the pool house, and possibly five additional days for the new sewer line. A November 5, 2014 letter from the architect notes that the pool house will be slab on grade and the foundation walls will be pinned to the ledge. He notes that they "...will only excavate as far down as required to get to elevation of slab and proper drainage below slab". Blasting may be done in lieu of, or in addition to, hoe-ramming.
4. The subject property is very close to Scott's Cove. Thus, the applicant needs to focus on addressing water quality, rather than water quantity. The applicant is addressing stormwater management via two proposed rain gardens.
5. Stormwater management has been proposed by the applicant, thus, an associated Drainage Maintenance Plan will need to be prepared by the applicant's engineer for review by the Planning and Zoning Director. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan 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.
6. This application was referred to the State of Connecticut DEEP. They sent an e-mail dated January 5, 2015 noting that they had reviewed the application relative to consistency with the Connecticut Coastal Management act, and found no inconsistencies with the proposal.
7. 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.
8. The proposed activities' potential adverse impacts on coastal resources, as modified within this resolution, are acceptable.
9. The proposed activities, as modified within this resolution, are consistent with the goals and policies in Section 22a-92 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.
10. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
11. 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 Coastal Site Plan Review #303 and Land Filling & Regrading Application #339 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction of the pool house, installation of the gravel driveway off of Peabody Lane, and installation of the two rain gardens shall be in accordance with the plans entitled:
- Zoning Location Survey of #68 Salem Straits prepared for Thomas Murphy Sophie Murphy, by William W. Seymour & Associates, scale 1"=20', dated April 8, 2010 and last revised June 2, 2014.
 - A New Pool House for: The Murphy Residence, 68 Salem Straits, Property Site Plan, by Vicente Burin Architects, LLC, dated 1-22-2015, Sheet No. SP-2.
 - Soil Erosion & Sediment Control and Water Quality Plan, 68 Salem Straits, dated November 20, 2015 and last revised January 22, 2015.
 - Rain Garden Design by L&L Ever-Green, dated January 21, 2015 and received January 22, 2015.
 - A New Pool House For: The Murphy Residence, 68 Salem Straits by Vicente Burin Architects, LLC, dated 10-23-2014, Sheets No. A-100, A-200, and A-300.
 - Pool House Screening Plan Murphy Residence (8-1/2" x 11" sheet) by L &L Ever-Green Inc., undated.
- B. The pool house will be approximately 977 square feet, and contain a bathroom, office and great room. The great room will have a microwave, dishwasher, sink and refrigerator. The pool house is an accessory use to the existing single family house on the property. Only one residence / dwelling unit is allowed on a property. No one can live in the pool house. The pool house cannot be used as an apartment or a residence or a dwelling unit.
- C. At the public hearing, it was noted that blasting and/or hoe-ramming will need to be done to implement the project as designed. The Commission hereby requires that any blasting and/or hoe-ramming be done only during the hours of 8 a.m. to 3:30 p.m. on weekdays (not holidays or weekends). It was represented by the applicant's contractor that approximately twelve days of hoe-ramming will be needed to implement the project. In order to minimize disruption to the neighbors, the Commission hereby limits the owners to a maximum total of twelve days of hoe-ramming during the hours of 8 a.m. to 3:30 p.m. Any request for hoe-ramming beyond that requires subsequent review and approval by the Planning and Zoning Commission.
- D. Because the property is very close to Scott's Cove, the applicant does not need to address stormwater quantity, but rather solely water quality. Water quality has been addressed through the proposed installation of two rain gardens.
- E. Due to the specific nature of the project, the provision of a Performance Bond per Section 857 of the Darien Zoning Regulations is hereby waived.
- F. As noted in Section 856 of the Darien Zoning Regulations, no processing, sorting, crushing, mixing, fabrication of rock or gravel or construction debris or other similar activities shall be engaged in or be operated on the site.
- G. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Soil Erosion & Sediment Control & Stormwater Quality Management Plan" in Condition A, above (last revised January 22, 2015), and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to

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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.

- H. A Drainage Maintenance Plan shall be prepared by the applicant's engineer and submitted to the Planning and Zoning Director for his review with the Town Engineer. This Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 68 Salem Straits to maintain the rain gardens, and will alert future property owners of 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 the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed pool house.
- I. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the new pool house, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the gravel driveway as well as the grading in the yard and the planting of the rain gardens have been completed in compliance with the approved plans referred to in Condition A, above.
- J. Once the project is complete, and prior to the issuance of a Certificate of Zoning Compliance or Certificate of Occupancy for the pool house or February 10, 2016 (whichever comes first), the applicant shall submit a final certification, including photographs from the applicant, that all work has been properly completed in accordance with the approved plans.
- K. 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.
- L. 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. A Sewer Connection Permit from Sewer Services is required, as well as a Zoning and Building Permit for the pool house. If any blasting is to be done, a permit is required from the Darien Fire Marshal.
- M. 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 year of this action (February 10, 2016). This may be extended as per Sections 858 and 1009.

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 documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and

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Zoning Commission, and a Special Permit form and Notice of Drainage Maintenance Plan filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #338, ETG Properties, LLC, 5 Top O'Hill Road.
Proposing to fill and regrade the south side of the property to create a more level yard area, and to perform related site development activities.

Mrs. Cameron noted that the project storm water has not been well managed and, in particular, they had a problem with water from Top O'Hill Road cutting through the site and impacting the neighbor.

Commission members wondered whether it was possible to require a storm water management plan that would be implemented throughout the construction process, not just a final drainage plan that would not be in effect until the project is completed. Another possibility would be to create a hand-out to give to each applicant for Zoning and Building Permit to put them on notice that they are responsible for managing the storm water throughout the construction process. Commission members agreed that a bond would be required. The amount of the bond was discussed.

The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Land Filling & Regrading Application #338

Street Address: 5 Top O'Hill Road
Assessor's Map #29 Lot #84

Name and Address of:
Applicant &:
Applicant's Representative: Richard Bennett, PE
Richard Bennett & Associates
25 Sylvan Road South, Suite B
Westport, CT 06880

Name and Address of:
Property Owner: ETG Properties, LLC
c/o 14 Edgerton Street
Darien, CT 06820

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Activity Being Applied For: Proposing to fill and regrade the south side of the property to create a more level yard area, and to perform related site development activities.

Property Location: The subject property is located on the west side of Top O Hill Road approximately 300 feet north of its intersection with Christie Hill Road.

Zone: R-1

Date of Public Hearing: November 25, 2014 continued to January 6, 2015 and January 27, 2015 and January 29, 2015

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

Publication of Hearing Notices

Dates: November 14 & 21, 2014

December 26, 2014 and January 2, 2015 Newspaper: Darien News

Date of Action: February 10, 2015

Action: APPROVED WITH CONDITIONS
AND MODIFICATIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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, 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 proposal is to fill and regrade the west and south sides of the 5 Top O Hill Road property to create a more level yard area to the south of the house, and to perform related site development activities. The subject redevelopment (replacement house its associated patios and redesigned driveway) will have a total impervious surface of 7,020 square feet according to the applicant's engineer. The previous house and driveway had less impervious surface, and it was generally acknowledged that the previous residence on the subject property had no associated stormwater management system.

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2. The elevations on the subject property range from elevation 184 in the northeast corner of the property to elevation 160-162 along the property's western property line, with the steepest grades on the western forty to fifty feet of the property.
3. The property owner received a Zoning and Building Permit for a new replacement residence on the subject property. As part of that Zoning and Building Permit, an associated stormwater management plan was prepared. That plan showed the installation of 120 linear feet of galleries (Cultec units) to the northwest of the proposed replacement house, to the west of the end of the proposed driveway. After receiving the Zoning and Building Permit, the property owner then applied to the Planning and Zoning Commission for this subject filling and regrading application.
4. At the November 25, 2014 public hearing, Richard Bennett, Professional Engineer, represented the property owner and said that the approved grading plan as part of the Zoning and Building Permit for the house limits the regrading activity to within 25 feet of the proposed structure. The application is for regrading additional portions of the site via a Land Filling & Regrading/Special Permit approval to be obtained from the Planning & Zoning Commission.
5. At that public hearing, the Commission expressed their concerns about storm water runoff being directed toward the neighbors to the west and the south, and the fact that many trees had been removed from the site. They asked for an accurate planting plan and a very precise drainage plan to protect the neighboring property owners. They also asked for details of the proposed boulders to be placed in the rear of the property.
6. During the public hearing process, it was realized that since this was a replacement residence, Section 880 of the Darien Zoning Regulations requires that the "fresh meadow approach" be used when analyzing stormwater management (that no engineering credit be allowed for the old impervious surfaces). That was not done in this case.
7. At the January 6, 2015 public hearing, Richard Bennett presented additional details regarding the proposed plantings and the proposed boulder wall. A detailed landscaping plan was prepared and submitted, and he noted that large boulders that will make up the proposed retaining wall, which will be less than three feet tall. He said that some of the planting and landscaping has already been done in order to start to stabilize the disturbed soils.
8. One of the downhill neighbors on Homestead Road, Mr. Fahey, engaged the services of an attorney and engineer. They testified at some of the public hearing sessions. Mr. Fahey's engineer from Martinez Couch & Associates did prepare a Stormwater Drainage Analysis and submitted it for the record.
9. At the public hearings on this matter, Attorney Robert Maslan represented the Faheys who live at 15 Homestead Lane, which is to the west and northwest of the subject site. He said that throughout the ongoing construction process, the silt fence is not being maintained and the fact that the vegetation has been removed means there is no stormwater management system in place. He said that plan calls for stormwater management system, but it is not yet connected. He said that the original drainage report was not correct because it only accommodated the increase in impervious area rather than starting with the concept of an undeveloped site (fresh meadow approach) as required by the Regulations. Mr. Maslan also said that the old house and

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development had only sheet flow, which spread out the stormwater runoff as it ran to the west. The new plan concentrates much of the stormwater from the impervious surfaces to a corner just uphill from the Fahey property. He suggested that it would be more appropriate to direct the stormwater runoff from as many impervious surfaces as possible to the southeast portion of 5 Top O Hill Road so that the water can then soak into the site before it travels to the neighbors.

10. Rima Laukaitis, Professional Engineer from Martinez Couch & Associates, who presented both written and verbal testimony, believed that the storm drainage system that was recently installed is about seven feet farther to the west than the approved plan. She also noted that more site disturbance has occurred than was originally approved and the disturbance and installation of the drainage system is closer to her client, the Faheys, who live to the west.
11. Mr. Bennett noted that one of the problems is that the driveway from Top O Hill Road was designed to prevent stormwater runoff in the street from flowing into the property. He said that it was originally installed correctly but is no longer working in that manner. Mr. Bennett said that he will re-examine the drainage report and make any corrections necessary and if that means installing additional stormwater runoff system, it will be done. He said that the relocation of the drainage system approximately seven feet to the west of the original planned location is typical of adjustments made during construction and would have no material difference upon the neighbor.
12. At the January 6, 2015 public hearing, in response to concerns of downhill neighbors about the stability of the retaining wall, Mr. Bennett said that the Commission could require an engineer certification after the retaining wall has been built. This would give the Commission and the neighbor an assurance that it was built properly. It was noted that the area was wooded before the construction started and much of the water was caught in that wooded area. Now that the wooded condition has been changed, runoff is not caught on the site to the extent that it was before. A Landscape Plan was prepared which, if properly implemented, will assist in stabilizing the slope and help minimize runoff.
13. At the final public hearing on this matter on January 29, 2015, in response to a number of questions and comments from Commission members and Mr. Fahey's attorney and engineer, Mr. Bennett agreed to a number of changes to the submitted plans. Included in these changes are that the stormwater management system be revised to reflect the following:
 - Two foot sump in the catch basin in the corner of the driveway;
 - Trench drain around the west and south side of the patio;
 - Lip on the driveway (which is now on the plan), but should be specifically called out;
 - Level spreader outlet on the Cultec on the south side to handle the overflow;
 - Additional Cultec units on the south side of the house.
14. The applicant has proposed a stormwater management system, which has been amended during the public hearing process, and other changes to the system are also required as part of this approval. The applicant shall prepare a Drainage Maintenance Plan, in order to outline required maintenance for these proposed systems.
15. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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16. 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 #338 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

A. Subject to the modifications and changes as noted below, work shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein:

- Landscape Plan, ETG Properties 5 Top O Hill Road, by Richard Bennett & Associates, scale as shown, dated 12/26/14.
- Site Plan Details & Notes, ETG Properties 5 Top O Hill Road, by Richard Bennett & Associates, scale as shown, dated 05/02/14 and last revised 01/19/15.

By April 10, 2015, the Site Plan Details & Notes Plan shall be revised to reflect the following:

- Two foot sump in the catch basin in the corner of the driveway along with a filter basket;
- Trench drain around the west and south side of the patio and directing that water to the south and into the additional Cultec units;
- The installation of a Lip on the driveway (which is now on the plan), but shall be specifically called out on the plan;
- Level spreader on the Cultec on the south side to handle the overflow;
- Additional Cultec units on the south side of the house (at least 16 linear feet is being required by the Commission).

B. A Performance Bond of \$10,000 is required by the Commission to assure that sediment and erosion controls are properly installed and maintained and to assure that site disturbance beyond the scope being approved does not take place, and to generally protect the environmental features of the site and surroundings, and for the required Landscape Plantings to the west and south of the proposed residence. The format and surety of the bond shall be to the satisfaction of the Director of Planning and shall be submitted prior to the proposed regrading work, and shall be returned upon the proper completion of the work, and certification pursuant to this Resolution, and the stabilization of disturbed soils. Up to one-half of the bond may be returned after the first growing season.

C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Site Plan Details & Notes" in Condition A, above, 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 and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified once the required 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. During the ongoing construction and site work, the applicant shall make all efforts necessary to manage stormwater generated on site and flowing through the site so that it is properly managed and does not negatively impact the neighbors or streets.

REQUIRED SUBMISSION AND FILING IN DARIEN LAND RECORDS

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- D. A Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office by March 10, 2015. This Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 5 Top O Hill Road to maintain the subsurface detention systems, and will alert future property owners of 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 the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Certificate of Occupancy for the residence.

FINAL CERTIFICATIONS PRIOR TO CERTIFICATE OF OCCUPANCY

- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the proposed new residence the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the grading in the yard, the drainage system and the required landscape plantings have been completed in compliance with the approved plans referred to in Condition A, above.
- F. As agreed to by the applicant, Mr. Bennett, the Commission hereby requires an engineer certification after the retaining wall has been built. This would give the Commission and the neighbor an assurance that it was built properly. This shall be submitted prior to the issuance of a Certificate of Occupancy for the proposed residence or February 10, 2016 (whichever comes first).
- G. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the proposed new residence or February 10, 2016 (whichever comes first), the applicant shall submit a final certification, including photographs from the applicant, that all work has been properly completed in accordance with the approved plans.
- H. 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.
- I. 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.
- J. 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 year of this action (February 10, 2016). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans, as required to be modified 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. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the start of the proposed regrading work and prior to the issuance of a Certificate of Occupancy for the residence.

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Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #340, Michael & Charlotta West, 45 Swift's Lane.
Proposal to excavate, fill and regrade in order to accommodate a replacement house, pool, and driveway, and to perform related site development activities.

Commission members discussed the possibility of blasting and the possible use of the hoe ramming at the site. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Land Filling & Regrading Application #340

Street Address: 45 Swift's Lane
Assessor's Map #50 Lot #9

Name and Address of:
Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates PC
30 Old King's Highway South
Darien, CT 06820

Name and Address of Applicant &:
Property Owner: Michael & Charlotta West
45 Swift's Lane
Darien, CT 06820

Activity Being Applied For: Proposal to excavate, fill and regrade in order to accommodate a replacement house, pool, and driveway, and to perform related site development activities.

Property Location: The subject property is located on the south side of Swift's Lane approximately 1,300 feet east of its intersection with Ring's End Road.

Zone: R-1

Date of Public Hearing: January 20, 2015 continued to February 3, 2015
(no testimony was taken on January 20, 2015)

Time and Place: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices
Dates: January 9 & 16, 2015

Newspaper: Darien News

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Date of Action: February 10, 2015

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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, 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 excavate, fill and regrade in order to accommodate a replacement house, pool, and driveway, and to perform related site development activities. The existing residence is served by an on-site septic system, and the new proposed residence will connect to the Town sanitary sewer system in Swift's Lane.
2. There is an existing cottage on the subject property, which may tie into the sanitary sewer system as part of this project. As the applicant notes in the submitted narrative, this cottage is fully permitted, and does not include a kitchen. It is not a dwelling or a residence or an apartment.
3. As part of this application, a stormwater management plan was prepared. Comments on that plan were made by the Public Works Department Town Engineer, and the plans were revised to incorporate his comments. The applicant is addressing stormwater management via underground infiltrators/Cultec rechargers on-site.
4. Because of the presence of on-site ledge and rock, either hoe-ramming or blasting will need to be done to implement the project as designed. At the public hearing on February 3, 2015, the Commission noted its concern with the potential impacts on neighbors of hoe-ramming. The applicant's representative noted that if hoe-ramming needs to be done, then two weeks would be sufficient to accomplish the work.
5. At the February 3, 2015 public hearing, it was mentioned that the property fronts directly on Gorham's Pond, and the area to the east of the proposed house, is, and according to the plan, will continued to be, manicured lawn. The Commission notes that water quality on waterfront sites is important, especially on sites which front directly on a waterbody such as Gorham's Pond, which flows directly into Long Island Sound. At the hearing, a request was made to strongly consider the possibility of planted/landscaped areas near and along Gorham's Pond, to

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improve water quality, and to minimize the impacts of fertilizers, herbicide, insecticides and other chemicals on Long Island Sound. The attorney for the applicant agreed to look into such improvements, and if his clients is willing, they will submit a revised plan for staff review.

6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. 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 #340 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Topographic & Zoning Location Survey of #45 Swifts Lane prepared for Michael L. West Charlotta West, scale 1"=20', by William W. Seymour & Associates, dated April 28, 2014 and last revised December 16, 2014.
 - Site Plan prepared for West Residence #45 Swift's Lane, scale 1"=20', by LBM Engineering Inc., dated November 22, 2014 and last revised 12/22/2014.
- B. Due to the minor nature of the filling and regrading associated with this project, the Commission hereby waives the requirement for a performance bond.
- C. At the public hearing, the Commission noted its concern with potential impacts on neighbors of hoe-ramming. The applicant's representative noted that some blasting and/or hoe-ramming is required to implement this project. Due to the potential impacts of hoe-ramming, the Commission hereby limits all hoe-ramming on this project to a total of 14 consecutive work days, from a maximum of 8:00 a.m. to 3:30 p.m. weekdays. The owner, contractor or engineer shall notify the Planning and Zoning Office on days which hoe-ramming is to occur. If all ledge/rock removal cannot be accomplished in the 14 days of hoe-ramming permitted herein, then blasting shall be done (with appropriate permit from the Darien Fire Marshal), or the applicant shall return to the Commission for a possible modification of this approval. The Commission encourages blasting rather than hoe-ramming.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Site Plan" in Condition A, above, 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 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.
- E. Due to this property's location directly on Gorham's Pond, the Commission very strongly recommends the installation of planting/landscaped areas near the Pond to improve water quality. The purpose of these planting beds is to provide wildlife habitat and a vegetated buffer

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between the manicured lawn and Gorham's Pond, which flows directly into Long Island Sound. The planting beds can consist of low maintenance and low-lying plantings, and the planting beds do not need to be greater than six feet wide. They do not need to extend along the entire water frontage, but rather, can be in smaller blocks of ten to twenty feet in length. If the property owners decide to pursue this type of installation, they can work directly with the Planning and Zoning Office on appropriate plantings and their proposed locations. No further review or approval of the Planning and Zoning Commission is required for this conservation oriented and environmental enhancement work.

- F. A Drainage System Operations & Maintenance Plan was submitted to the Planning and Zoning Office on page A-15 of the submitted "Engineering Report" dated November 22, 2014. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 45 Swift's Lane to maintain the subsurface detention systems, and will alert future property owners of 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 the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed replacement house.
- G. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the new house, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- H. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the new house or February 10, 2016 (whichever comes first), the applicant shall submit a final certification, including photographs from the applicant, that all excavation, filling and grading work has been properly completed in accordance with the approved plans.
- I. 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. A Sewer Connection Permit from Darien Sewer Services is required. For any abandonment of an on-site septic system, Darien Health Department approval is required. If any blasting is to be done, a permit is needed from the Fire Marshal.
- J. 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.
- K. 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 year of this action (February 10, 2016). This may be extended as per Sections 858 and 1009.

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 documents

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by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the replacement house.

Chairman Cameron read the following agenda item:

Business Site Plan #122-A/Special Permit, TG Diners, LLC, d/b/a Darien Diner, 275 Boston Post Road. Proposal to construct additions and alterations to the former Friendly's restaurant; to establish Darien Diner; and to perform related site development activities.

The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted: The motion was made by Mr. Voigt and seconded by Mr. Sini. All voted in favor except Mr. Cunningham who abstained because he had not attended the public hearing.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 10, 2015**

Application Number: Business Site Plan #122-A/Special Permit

Street Address: 275 Boston Post Road
Assessor's Map #13 Lot #3

Name and Address of
Proposed Tenant: TG Diners, LLC, d/b/a Darien Diner
275 Boston Post Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Name and Address of
Property Owner(s) Gruss/Lesser Properties, LLC
c/o 2083 Thatch Palm Drive
Boca Raton, FL 33432

Activity Being Applied For: Proposal to construct additions and alterations to the former Friendly's restaurant; to establish Darien Diner; and to perform related site development activities.

Property Location: The subject property is located on the north side of Boston Post Road approximately 250 feet east of its intersection with Birch Road.

Zone: SB-E and R-1/2

Date of Public Hearing: January 27 & 29, 2015

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Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices

Dates: January 16 & 23, 2015

Newspaper: Darien News

Date of Action: February 10, 2015

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
February 20, 2015

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 670, 900, 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 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.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted site plan and floor plan, and the statements of the applicant and proposed tenant 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 proposes to construct additions and alterations to the former Friendly's restaurant; to establish Darien Diner; and to perform related site development activities. The existing Darien Diner business will be relocating from 171 Boston Post Road to this site. The building is now 2,700+/- square feet (with no attic or basement), and will be expanded to 3,068+/- square feet (with no attic or basement). The applicant has proposed a maximum of 92 seats (although the submitted floor plan shows a seating capacity of 93). No patron bar area is proposed.
2. At the public hearing on this matter, the applicant, Wilder Gleason, explained that the current 2,700 square foot building has 46 parking spaces on-site, although some have a smaller-than-regulation-size backup aisle. The proposed site will provide 43 parking spaces with regulation-size backup aisles. Based upon Section 904 of the Zoning Regulations, a minimum of 31

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parking spaces are required, however, the actual parking demand may be greater. Some of the on-site parking spaces are eighteen foot long, with a two-foot overhang over grass areas.

3. The Commission notes that details of the proposed work is described in the P&Z Narrative dated 12-19-14, and at described at the January 29, 2015 public hearing.
4. Because there would be on-site cooking, it is imperative that a hood and duct system be installed and properly maintained to minimize fumes and odors that could impact adjacent properties.
5. The Darien Zoning Board of Appeals granted a variance for the proposed work as part of ZBA Calendar #60-2014 on December 10, 2014. That approval, with its associated conditions, is hereby incorporated by reference. The Architectural Review Board (ARB) approved with conditions and modifications, the renovations to the building as part of ARB #1-2015 on January 20, 2015. That approval is also hereby incorporated by reference, and those changes must be incorporated.
6. A one-page memo dated 01-05-2015 was submitted from Captain Anderson of the Darien Police Department. This memo notes: that modifications to the handicapped parking spaces and their associated ramps/access may be needed; that the ingress and egress drives should remain the same as past usage; and that on-site signage shall be modified and MUTCD-compatible. The Commission finds that the proposed one way traffic flow and traffic circulation for has functioned successfully for an on-site restaurant for many years, and is not requiring any change to that.
7. The location and size of the use, the nature 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.
8. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. 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.
10. 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 Business Site Plan #122-A/Special Permit are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

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- A. The building additions and alterations shall be in accordance with the following plan submitted to and reviewed by the Commission, and are required to be modified herein in Conditions A and B:
- Zoning Map of Property prepared for Darien Diner, 275 Boston Post Road, by Dennis A. Deilus, Land Surveyor, dated 11/12/14 and last revised 11/24/14.
 - Darien Diner 275 Boston Post Road by Joel L. Greenberg Architect, Floor Plan, dated 10-17-14.

The Commission notes that the interior layout and design may be modified as needed by the Building Official, Fire Marshal, and/or the Darien Health Department. The Commission is approving the size and use of the tenant space.

The Commission understands that modifications will likely need to be made to the handicapped parking spaces and their associated ramps/access to comply with the current Building Code. This may result in a decrease of on-site parking as a result of the need to re-stripe spaces or modify ramps/access. Because there is more on-site parking than required in the Regulations, these modifications, which could reduce on-site parking by up to two spaces, if required by the Building Official, may occur, and will still comply with the Regulations.

- B. The plans shall be modified to reflect the changes recommended by Captain Anderson in his 01-05-2015 one-page memo. This includes the need for new MUTCD signage on-site. All signage as recommended by Captain Anderson in his memo shall be properly installed prior to the issuance of a Certificate of Occupancy for the restaurant. This new signage shall be reflected on an updated site plan, prior to the issuance of a Zoning or Building Permit for the restaurant.
- C. New exterior lighting poles are proposed. All lighting shall comply with the Darien Zoning Regulations, including but not limited to the fact that the total height of the light poles in and around the parking lot be less than sixteen feet high to the top of the light fixture (Section 232), that there be no migration of light off-site, and all exposed bulbs will be screened. Light fixture orientation must be adjustable so that if there is a glare type problem, the fixtures can be, and must be, adjusted at the direction of the Zoning Enforcement Officer to correct such problem(s).
- D. No outdoor seating and/or outdoor dining has been proposed, and none is allowed. Any subsequent request for outdoor seating and/or outdoor dining requires formal review and action by the Planning and Zoning Commission.
- E. The Commission is familiar with the existing Darien Diner, which has operated in Darien at the 171 Boston Post Road site for over ten years. If the applicant wants a liquor license at the new location, the applicant will need to comply with all State and local requirements. The Commission hereby allows the Zoning Enforcement Officer to authorize a liquor permit for the subject property for a staff service bar only. However, if a patron bar area is proposed, the Zoning Regulations will require more on-site parking and Planning and Zoning Commission review and action will be needed. The proposed Darien Diner is not a bar or nightclub or entertainment facility, it is a restaurant. Although some restaurants have occasional music or entertainment, none has been proposed and none is allowed at the subject location.

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- F. As represented at the public hearing by the proposed tenant, all deliveries shall be from 7am-11am or from 2pm-5pm. No tractor trailers will be used. It is the responsibility of the tenant to inform delivery personnel that adequate delivery areas are provided in the rear or side of the building and to assure that only those designated areas are utilized for deliveries.
- G. Based upon the representations made by the proposed tenant that there would be no tractor-trailer deliveries, and that deliveries would only be accepted during certain times of the day, the Commission hereby waives the requirement for a loading zone under Section 909.
- H. Due to the very limited amount of new impervious surface, the Commission hereby waives the requirement for stormwater management under Section 880.
- I. Due to this location near residential properties, the Commission requires that the hours of operation of this business shall be a maximum of 6 am to 10 pm, seven days a week. These were the hours put forth by the proposed tenant at the public hearing. The Commission also acknowledges that employees may be on premises before and after those hours of operation for preparation and clean-up. Any modification to these proposed hours of operation requires a modification of this Special Permit, and review and action by the Planning and Zoning Commission.
- J. Because of this property's proximity to a residential zone, it is imperative that odors be minimized via a properly designed and functioning exhaust system. In order to minimize potential odors, the Commission hereby requires that the exhaust system include at a minimum, an appropriate, sufficient, kitchen hood with high performance grease filters and to direct the exhaust away from the Residential Zone. The filtering and exhaust system is to be installed in a manner that allows it to be easily and inexpensively upgraded in the future if odor is a problem. Prior to the issuance of a Certificate of Occupancy or restaurant opening for business, documentation shall be provided by the exhaust system installer to the Planning & Zoning Department that the proposed system has been properly installed. The tenant is responsible for assuring that the venting system functions properly at all times. The proposed venting system shall be installed per the approved plans and per the requirements of the Darien Health Department, Fire Marshal and Building Department. The continuing operation of and proper regular maintenance of the ventilation system (as recommended by the manufacturer or as required by the Darien Health Department) to prohibit the discharge of odors to the surrounding uses and/or properties is the responsibility of the restaurant operators and the owner of the property. The system shall be operated and maintained to minimize the emission of odors that could or would negatively impact adjacent property and/or be a potential nuisance to nearby residents. Odor complaints from commercial and/or residential neighbors shall also be reviewed and investigated by the Zoning Enforcement Officer (ZEO). If, in the opinion of the ZEO, there is a persistent recurring odor, the ZEO shall contact the tenant. The tenant shall then take appropriate measures to minimize odors.
- K. All Dumpster areas shall be maintained in a neat and orderly fashion by this property owner. The Dumpster doors shall remain shut at all times that someone is not loading or unloading garbage. A new Dumpster area with proposed screening has been shown on the approved

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site plan. One of the ZBA conditions of approval is that the Dumpster be picked up and/or serviced no earlier than 7 a.m., and that condition has been incorporated as part of this approval.

- L. Any change to the nature of the proposed use will also require a modification of this Special Permit, and prior review and action by the Planning and Zoning Commission. This would include, but not be limited to: site plan modifications, the hours of operation, amount of indoor or outdoor seating, or the physical expansion of the restaurant use.
- M. 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.
- N. 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 agencies. This includes, but is not limited to: plans for the food service facility must be approved by the Darien Health Department prior to the issuance of a Zoning or Building Permit. The Fire Marshal has noted that a hood and duct system with fire suppression shall be provided, and the hood, duct and fire suppression system shall be in accordance with State of CT Codes. The Sewer Services Department is requiring that a grease recovery unit (grease trap) is mandatory along with associated maintenance contract requirements.
- O. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 10, 2016). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, as required to be modified 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. All completed requirements and materials, including, but not limited to the filing of a Special Permit form in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning and Building Permit for the restaurant additions and alterations shall be completed or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Discussion ONLY on the following application: (time permitting)

Proposed Amendment to the Darien Zoning Map (COZM #2-2014), Special Permit Application #246-B/Site Plan #251-B, Land Filling & Regrading Application #184-B/lot line adjustment, Sun Homes Darien, LLC, 36, 42 (formerly 0), and 48 Wakemore Street. Proposing to establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.49+/- acres, and razing the existing three structures on those properties and constructing ten new structures containing fourteen market rate units and two affordable units to become Kensett II, and performing related site development activities. *DECISION DEADLINE: 4/9/2015.*

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Mr. Sini said that he feels that the proposed addition to Kensett should be age restricted, not just age targeted. He said that the Commission should stay away from the issue of whether the below market rate units must be or might be members of the Homeowners Association.

Mr. DiDonna questioned why residents in Kensett, even the below market units in Kensett, would not be members of the Homeowners Association.

Due to the late hour, the Commission members decided to discuss this matter at a future meeting.

Approval of Minutes

January 6, 2015 Public Hearing

Typographical comments were made by Mr. DiDonna, and Commission members agreed to those corrections. The motion to approve the minutes was made by Mr. DiDonna, seconded by Mr. Voigt. Although Mr. Sini was not at the meeting, he did watch it on DVD/video. All voted in favor except Mr. Cunningham who was not present for that meeting.

January 13, 2015 General Meeting

The motion to approve the minutes with some typographical corrections, and comments from Mr. Sini on pages 2, 3, and 9, was made by Mr. Sini and seconded by Mr. Cunningham and unanimously approved as amended by a vote of 4-0, with Mr. DiDonna abstaining, since he was not at the meeting.

January 20, 2015 Public Hearing/General Meeting

The Commission members decided to review those minutes further and make a decision on them at a future meeting.

February 3, 2015 Executive Session only

The Executive Session minutes of February 3 were reviewed, and the motion to approve the minutes as written was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

There being no further business, the following motion was made: That the Commission close the meeting. The motion was made by Mr. Voigt and seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 10:25 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director