

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
MARCH 19, 2015**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Keating
RECORDER: Syat

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

PUBLIC HEARING

Continuation of Public Hearing regarding Special Permit Application #286, Karen Hand, 132 Heights Road. Proposing to establish an acupuncture office in a portion of the first floor of the existing building at 132 Heights Road. The subject property is located on the north side of Heights Road approximately 625 feet west of its intersection with Noroton Avenue, and is shown on Assessor's Map #74 as Lot #14 in the Designed Commercial (DC) Zone.

Karen Hand, the applicant, explained that she is a licensed acupuncturist and she plans to open her business office at 132 Heights Road. She said at this time she will be the only person working at the site, but in the future she may be able to hire a receptionist. She said that the parking demand will not be a problem because her business is a very low volume business and it will be rare to have more than two patients at the site at any given time. She said there is some parking located in the front of the building and additional parking located to the rear of the building. She explained that she is taking less than half of the first floor office space for her personal service business. She anticipates having three treatment rooms and a waiting room and a reception room. She said that there is an apartment on the second floor of the building and another business space on the first floor of the building. She reviewed the floor plan and indicated that she anticipates all of her pedestrian traffic to come through the front door, although there is a side door that is functional.

There were no questions or comments from the public regarding this application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron the read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #69-B, Flood Damage Prevention Application #57-B, Land Filling & Regrading #344, David & Sandra Kirchoff, 1 Beverly Place. Proposing to raze the existing residence and garage; construct a new single-family residence and attached garage to be connected to the municipal sewer system; construct a new in-ground swimming pool; install associated stormwater management; and to perform related site development activities within regulated areas. The subject property is located on the west side of

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Beverly Place approximately 100 feet east of its intersection with Hawthorne Road, and is shown on Assessor's Map #62 as Lot #83 in the R-1 Zone.

Attorney Robert Maslan represented the applicant and explained that the existing house would be demolished and a new two-story house would be built. In addition to the house, there is a garage that will be reconstructed and connected to the house with an overhead and enclosed bridge-type structure. Also proposed in the site development, is the installation of a swimming pool and a gazebo like structure. Attorney Maslan submitted two copies of a revised survey and site plan that includes minor changes and revisions. He said that the existing house on the site is non-conforming due to front setback variances and these will be abandoned. The new house will comply with all setback Regulations. Attorney Maslan submitted a booklet of photographs for each Commission member. He also submitted a revised cover sheet and a copy of the Environmental Protection Commission (EPC) approval that had recently been granted. He described the photographs of the site and pointed out the little intermittent stream that travels between the house and garage. An enclosed walkway/bridge structure will connect the proposed house and proposed garage. He also noted that there are tidal wetlands to the rear of the house, along the westerly boundary line of the property. Attorney Maslan explained that the proposed two-story house will be raised up above the expected flood level and that the crawl space will be at elevation 10 and the house will be at elevation 15.

Lou DiMarzo of Redniss & Mead said that stormwater quality will be managed by the installation of five rain gardens or bio-detention basins to hold the first inch of rainfall runoff. The capacity of these rain gardens is approximately 700 cubic feet. He said that this will accommodate the runoff from the impervious surfaces before it is eventually discharged into the waters of Long Island Sound. Mr. DiMarzo explained that the existing septic system on the site will be removed and a new sanitary sewer grinder pump will be installed and sanitary sewer connection will be made to the existing forced sanitary sewer in the street. He said that the base flood elevation is 14 and therefore the lowest floor elevation of the house will be at 15. The garage would be at elevation 10 and the pool and pool equipment will be at elevation 14. All of the mechanical equipment, including air conditioning units and pool equipment must be at or above the expected flood level of 14.

Kathy Kane, Landscape Designer, explained that rain gardens #2 and #3 are different than the others due to the proposed closeness to the salt water. She said that they will be removing three large oak trees that are in close proximity to the proposed construction. Numerous other trees will be planted on the site. A portion of the site that is currently lawn will be converted to a meadow landscape that will only be mowed once per year. This reduces the amount of lawn area and stormwater runoff. That new meadow landscape area is in the northeast corner of the site. There was some discussion about the removal of specific oak trees and what would be planted in their place. Ms. Kane said that the trees close to the proposed construction or are over hanging the construction will be removed. She said that they are installing 2 large oak trees and 8 other tall trees. Mr. DiDonna noted that the Environmental Protection Commission (EPC) had required the implementation of the landscaping plan, which includes required the tree replacement. Ms. Kane noted that the plan reviewed and approved by the EPC does not call for installation of just one tree for each large tree being removed. The EPC approved the plan that is being reviewed by the Planning & Zoning Commission. It was noted that the EPC approval requires that the approved landscaping plan be implemented prior to the Certificate of Occupancy for the replacement house.

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Mr. Voigt asked about using blasting or using hoe ramming to remove rock that is in the area. Attorney Maslan said that they do not anticipate having to remove solid rock in the vicinity of the proposed house. Mr. DiMarzo said that the only place they might need to remove rock is in the location of the proposed propane tank, which will be between the house and the street. He said that the plan proposes a 250 gallon propane tank and they will try to relocate it if needed to minimize the rock removal. He said the location of the fuel tank would be adjusted depending on site conditions.

There were no comments or questions from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #305, Flood Damage Prevention Application #346, Land Filling & Regrading Application #345, Kevin Kurvla, 9A Tokeneke Trail. Proposing to construct a new single-family residence, pool, patio, on-site stormwater management and septic system, and perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Trail, approximately 300 feet north of its intersection with Cross Road and is shown on Assessor's Map #65 as Lot #8-2, in the R-1 Zone.

Attorney Bruce Hill represented the applicant and explained that this is a two-plus acre, rear lot that is accessed from Tokeneke Trail. Tokeneke Brook flows on the north and east sides of this site and special setback requirements are applicable because it is a rear lot. He said that there is a 100 foot upland review area adjacent to Tokeneke Brook. Attorney Hill said that the expected flood elevation in this area is 13 feet above North American Vertical Datum 1988 and that most of the buildable portion of the property is in the flood zone. In order to develop on the property, they are requesting approval under the Coastal Area Management Program and the Flood Damage Prevention Regulations and a Special Permit for filling and regrading of the property.

Todd Ritchie, Professional Engineer, said that his firm conducted test holes at the site and it was determined that the design should keep the septic system on the uphill or upland side of the house rather than between the house and the Brook. He said that the storm drainage system to manage stormwater runoff will be adjacent to the existing driveway and some will be on the north and northeast sides of the house. He said that the storm drainage design for the driveway calls for enough infiltration area as if the entire driveway were to be paved using regular asphalt. Instead of using regular asphalt, which would be impervious, the applicant proposes to install a porous asphalt driveway at this time. By installing the drainage system and the porous asphalt driveway, the stormwater runoff system is more than adequate to handle the proposed change in the site condition according to Mr. Ritchie. Mr. Ritchie said he has received and reviewed the comments from Redniss & Mead and will incorporate those suggested changes in his site plan. All the changes will be incorporated except the proposed underdrain that would be adjacent to the driveway. He said that if the driveway eventually becomes paved, the installed drainage system will manage it properly due to the oversized design.

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Mr. DiDonna expressed his concern about the number of large trees to be removed. By his count, there are approximately 30 large trees to be cut. Attorney Hill submitted a copy of the letter from John Roberge, Project Architect, dated January 16, 2015. He said that they are still awaiting action from the EPC, which is expected early in April 2015. Mr. DiDonna asked about the changes in the flood conditions that might occur due to the filling of the house location. Attorney Hill said that some fill will displace some flood waters at the edge or fringe of the flood zone. He said that the house would be at elevation 14, which is one foot higher than the base flood elevation (BFE) of 13. Mr. Ritchie said that the treatment of stormwater is designed to put water into the ground rather than to allow it flow over land toward the Brook. He said that the first inch of runoff would be managed for water quality purposes but not for flood control purposes.

Kate Throckmorton, Licensed Landscape Architect, said that she prepared the reports for the EPC and Coastal Area Management Report for the Planning & Zoning Commission. She said that there is some overlapping jurisdiction between the two Town agencies. She said that trees in the vicinity of the house, driveway and septic system will be removed but no shoreline trees will be removed. She also noted that the buffer area trees near the neighbor to the south will not be removed. It was noted that the treatment of stormwater runoff is for the first inch of rainfall, which is in accordance with the State guidelines. Ms. Throckmorton said she would like to revise the plans to add more tree protection in the vicinity of trees that are to be preserved to make sure that the contractor does not disturb the root system. She would also like to add protection of the septic system area from unwanted disturbance. Ms. Throckmorton said that there is a letter from the neighbor expressing concerns about the birds that would be disturbed. She said that the development will not impact any endangered species of birds or wildlife. She submitted one copy of a written response.

Michael Boice explained that he had prepared the landscaping plan. He referred to a revised tree removal plan dated March 10. He said that 20 large trees in the vicinity of the proposed house or very close to the house will need to be removed; another 5 trees to the north and east need to be removed due to their condition or the fact that the root system would be impacted due to changes in the grade level. He said some of these trees are in the vicinity of the septic system and some are in the vicinity of the stormwater management detention system. He also reviewed the planting plan and noted that much of the existing lawn area will be changed to a native garden area that will have a more natural condition. He said that 36 new trees are shown on the plan and most of them are Norway Spruce trees.

Commission members said that they had difficulty understanding the landscaping plan and that the plan would need to have a better series of legends and labeling.

John Wicko, Project Architect, submitted 11" x 17" copies of plans that are revised 3/18/15. In response to questions, he said that no flood vents are proposed because of the fill that is proposed would raise the ground level around the proposed house to be above the expected flood level. He said that the crawl space slab would be at Elevation 9.15 which is below the expected flood level of 13. There was some discussion regarding the fifth garage space which would be to the left of the pass through of the driveway.

Todd Ritchie said that the propane tank is proposed to be installed to the southwest of the house. The new propane tank will be underground.

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Mr. Wicko said that the house would contain 6 bedrooms and have 3,657 sq.ft. of floor area on the first floor and 3,723 sq.ft. of second floor.

Mr. Hill said that he would make sure that the plans are revised and brought back to the Planning & Zoning Commission prior to the continuation of the public hearing.

No one from the public had any questions or comments regarding the application. The Commission determined it would be necessary to continue the public hearing on April 7, 2015 at 8:00 P.M. in the Town Hall, room to be determined, so that a detailed report can be received from the Environmental Protection Commission.

Chairman Cameron opened the General Meeting at 9:56 P.M. and read the following agenda item:

GENERAL MEETING

Informal discussion regarding the possible expansion of Atria Darien, 50 Ledge Road.

Attorney Wilder Gleason explained that the Atria residential complex was proposed and approved in 1996 and was opened in 1997. There are 86 units. Seventy-one on-site parking spaces were required, but 88 parking spaces were built. He said that there has been no parking problem that has been experienced. He said that there is a distinction in the Regulations between an independent living unit and an assisted living unit, however, this is an artificial divide because the residents go from one type of care to another. When they need more substantial care than that, they are transferred to a nursing home. He said that since the project was developed, the preferences of the residents have been expressed. He said that many couples who moved to the facility would really like to have two bedrooms. In accordance with that, they propose to amend the Special Permit to add 6 two-bedroom units and to convert some of the studio units to one full bedroom. Part of this project will involve construction of an addition to the building and this will force the relocation of the driveway. A portion of the driveway would then be closer to the property line than currently allowed by the Regulations. He said that in the location where the driveway would be 4 to 6 feet from the property line, it is adjacent to Stony Brook Park that is technically in a residential zone, although it is not used as a residence.

Attorney Gleason said that part of the project would also include upgrading the generator to provide emergency power to all of the units if the regular power is interrupted. He said that in response to customer or client new requests they have already converted some of the units to a larger size by reducing the total number of units on the site. He questioned whether the Commission felt that it was worthwhile for him to pursue a change in the Regulations and the Site Plan approval for the project.

Several Commission members felt that the proposed changes do make sense. No formal application had been submitted and therefore there was no action taken by the Commission.

Chairman Cameron the read the following agenda item:

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Informal discussion regarding Old Town Hall Homes, 719 Boston Post Road.

Jan Raymond of the Darien Housing Authority said that the Old Town Hall facility currently contains 30 dwelling units on approximately two acres of land. Fifteen of these units are on the second floor of the building and there is no elevator service in the structures. She said that there are stairways that lead from the ground level to the upper level, and although they are covered, they are not fully enclosed and protected from the weather. She said that the Housing Authority is considering redeveloping the site and put forth requests for submission. Eight requests for information were made by prospective developers, but only one developer actually submitted a schematic plan.

Todd McClutchy said that he and his business partners would like to pursue the redevelopment of the site. They would remove the existing 30 units and construct 55 one-bedroom units with 74 on-site parking spaces. Part of the development is a three-story structure.

Mr. Crosskey, Project Architect, said that the submitted drawings and sketches are only in the early schematic stage. In general, they would keep the driveway curb cuts in the same locations and would place the building in the center of the site. The parking area would be around the east and north sides of the proposed building. The entire structure would comply with the setback regulations. Part of their plan would be to eliminate the outside trash dumpster. He said that the unit sizes would be 650 to 775 sq. ft. and would each have one bedroom. There was some discussion about the 4 or 5 parking spaces that are on this site and are dedicated for use by the Community Fund building immediately to the east of this property. More detailed information will need to be provided about that arrangement. There was a reference to Section 514.2 of the Zoning Regulations that requires at least one on-site parking space for each unit of moderate income, elderly housing. It was suggested that there might be a need to create a formal, shared parking agreement between the Housing Authority and the Community Fund building property. It was also suggested that the proposed third floor roof line was too high and that it would be appropriate to pull down the design of the structure due to the concerns about building height. It was also noted that there is no extra parking available nearby in situations where extra parking might be needed for the elderly housing (such as Mother's Day).

In response to questions, Mr. McClutchy said that all of the proposed residents would have to be at least 55 years or older, and to make the project work, there would need to be at least 55 units. Parking and building height were two of the major concerns expressed by the Commissions.

Jan Raymond said that getting rid of the inefficiencies on the site and converting all the units to one-bedroom units are keys to the redevelopment. She said that there are actually no couples who reside in the 30 units on the site at this time.

Mr. McClutchy said that he will look into the issues that were raised in more detail and will provide answers to the Commission.

Mr. Sini suggested that it might be more appropriate to reduce the size of the units down to 500 to 650 sq. ft., and therefore reduce the overall size of the building.

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No action was taking on the matter because there was no formal application.

Chairman Cameron then read the following agenda item:

Amendment of Special Permit Application #248-A/Site Plan, Estia's American, Boston Post Road.

Request to change the fencing around their outside dining area, install a pergola with a retractable awning, and to eliminate the existing umbrellas.

Commission members reviewed the materials that they had received, but noted that they would like to see more detailed drawings of the pergola and the layout of the proposed structure. Staff agreed to get more information to the Commission for discussion at the next available meeting.

Chairman Cameron the read the following agenda item:

Amendment of Special Permit Application #39-B, St. Luke's Church, 1864 Boston Post Road.

Request to expand the existing columbarium.

Attorney Wilder Gleason explained that the existing church facility and related uses are all part of a Special Permit use in the residential zone. They propose to expand the columbarium wall which will contain niches for ashes of cremated persons within the walls.

Commission members reviewed the submitted materials and concluded that the request is not a substantial modification which would require a public hearing. The following motion was made: That the Commission approve the requested modification to expand the columbarium wall in accordance with the submitted plans and materials. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron the read the following agenda item:

Amendment of Special Permit Application #173-A, KJD Properties, LLC, 841 Boston Post Road.

Request to modify previous approval to allow the sale of: on-site prepared crepes; pre-made cold sandwiches; toasted sandwiches; pre-made desserts; and coffee and other drinks.

Richard Girourard explained that the Special Permit granted by the Planning & Zoning Commission for an ice cream shop at this location is proposed to be modified. The hours of operation will be increased to now include breakfast and the serving of coffee and other beverages. He reviewed his March 10, 2015 letter and attachments which had been distributed to the Commission. Mr. Girourard said that the Fire Marshal has no problem with the very limited cooking facilities that are proposed and Health Department approval has been obtained. Mr. Girourard said that they have also added a back door access so the trash can be removed directly from the back of the store to the trash dumpsters that are located in the parking lot to the rear of the building. He said that there is limited on-site parking that is shared with other tenants within the building. He said that most of the customers will be walk-ins. The original plan had contained bench seating, but this has been eliminated and there now will just be a counter at the front window. Customers who have made purchases of food or beverage can rest their purchased items on the counter or they can consume it there. There will be no customer seating within the store or outside.

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It was noted that the menu is very limited and the cooking is very limited, thus, there are no special venting or odor control facilities that will be needed at this time.

Mr. DiDonna said that the proposed use is more intense than they previously approved ice cream shop.

Other Commission members felt that the requested modifications were acceptable. The following motion was made: That the Commission approve the requested modifications as specifically outlined and detailed in the submitted materials with the understanding that no further changes and modifications can be made unless and until additional action is be taken by the Commission. The motion was made by Mr. Sini and seconded by Mr. Olvany. All voted in favor except Mr. DiDonna who opposed the motion. The motion passed by a vote of 4 to 1.

The following motion was made: that the Commission waive the process of reading the Draft Resolution aloud because each member has had an opportunity to review the drafts by the meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

Chairman Cameron the read the following agenda item:

Discussion, deliberation and possible decisions on the following applications:

Special Permit Application #277-B/Amendment of Business Site Plan #248, Day Street Development, LLC, 13 Grove Street. Request for Le Boudoir, a personal service use, for a 1,250+/- square foot portion of the first floor of the building at 13 Grove Street. *DECISION DEADLINE: 4/30/2015.*

Commission members discussed the draft Resolution and numerous changes and modifications were discussed. During the discussion, it was noted that the modifications were too numerous to grasp at this time and the Commission asked the staff to revise the draft and distribute it for discussion and possible action at the next available meeting. No action on this matter was taken.

Due to the late hour, the Commission decided to postpone discussion on the remaining items on the agenda. No further discussions were held and no actions were taken. The following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 11:09 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director