

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 28, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat, Channel 79

Chairman Cameron called the meeting called to order at 8:00 p.m. She said that starting next week, the Planning & Zoning Commission will have a public input session on its agenda. The public will be allowed to talk to the Planning & Zoning Commission about items of concern, but not regarding any pending applications.

Chairman Cameron read the first public hearing agenda item:

PUBLIC HEARING

Subdivision Application #613, Estate of Mary Metzger/Oak Crest Developers LLC, 174 Middlesex Road. Proposing to subdivide the existing property into two lots. The subject property is located at the southeast corner formed by the intersection of Middlesex Road and Hollow Tree Ridge Road, and is shown on Assessor's Map #22 as Lot #81 in the R-1/2 Zone.

Attorney Robert Maslan represented the applicant, Oak Crest Developers LLC. He said that since the time of the application, Oak Crest Developers has acquired title to the property. He submitted copies of the deed and the letter of authorization from the client. He also submitted a booklet of photographs of the site and the surroundings. Attorney Maslan said that this is a two lot subdivision application to the Planning & Zoning Commission. He said that the property on the eastern end of the existing site is being divided or cut from the main parcel as part of a "free cut" or "first split" of the property. The remaining one acre property located closest to the intersection is the subject of the subdivision application pending before the Planning & Zoning Commission. He said that the free cut has not yet been implemented because they must first remove the existing house and old garage in order to create the new property line. He said that the proposed free cut has been reviewed and approved by the Director of Planning. Attorney Maslan said that there is a little pool that is approximately three feet deep and it too is to be removed from the property. He reviewed the photographs of the site and surroundings. He noted that that the southern property boundary is adjacent to the land around the Middlesex Middle School.

Attorney Maslan showed a revised map of the free cut lot on the east end of the site. He noted that there is a very restricted buildable area so that no portion of the buildable area of the proposed free cut lot will be behind the neighboring lot fronting on Middlesex Road. He said that the Director of Planning Jeremy Ginsberg has sent a letter indicating that the free cut will be approved after the structures have been removed. It is only then that the map could be filed on the Land Records showing the creation of this free cut lot.

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Mr. Sini reviewed the proposed subdivision and asked if there would be enough room on the corner lot to have the driveway far enough away from the intersection of Middlesex Road and Hollow Tree Ridge Road. Attorney Maslan said that the answer is yes, and he will have the engineer explain the details.

John Martucci, PE, reviewed the proposed site development plan. He said that the yellow area on the plan represents 20% of the lot area, which is the maximum building coverage allowed by the Regulations. He said that the properties slope down from Middlesex Road (to the north of the site) toward the school which is on the southern side of the property. He has designed his storm drainage system to accommodate the maximum allowed 20% building coverage plus a long driveway for each property. He said that the soil testing indicates that the drainage system will work in part due to the deep, well drained soils that will provide good infiltration of the stormwater so that it will soak into the ground rather than run off the property on the surface. He said that the proposed infiltrator units will have surface level catch basins which will act as overflows in the event of a severe rainstorm. Mr. Martucci said that the proposed driveway to Lot B is at least 100 feet from the intersection of Middlesex Road and Hollow Tree Ridge Road. At that intersection, it is a four-way stop that is controlled by four stop signs. He said that there is adequate sight distance for motorists coming out of the driveway to see any vehicles or pedestrians within the street right of way. Mr. Martucci said that the proposed sanitary sewer design has been reviewed and approved by the Sewer Commission. The plan includes an easement for the sewer line that will service Lot C (the corner lot) to cross through Lot B (the center lot) and go into the sanitary sewer in Middlesex Road.

The proposed driveway locations were discussed. In response to questions, Mr. Martucci said the driveway of Lot C would be approximately 50 feet from the stop sign that restricts west bound traffic flow on Middlesex Road. It was noted that the Zoning & Subdivision Regulations refer to the grade level of driveways and make sure that as driveways approach the street they are not very steep, but the Darien Zoning Regulations do not have any minimum distance requirements from the proposed driveway to an existing stop bar or street intersection. It was noted that the sidewalk is on the north side of Middlesex Road (the other side of the street) and that a painted cross walk allows pedestrians on the east side of Hollow Tree Ridge Road to get from the south side of Middlesex Road to the north side of Middlesex Road.

The proposed layout of the three lots was discussed. Attorney Maslan reviewed the definition of a "rear lot" as found on Page II-9 of the Darien Zoning Regulations. He said that the proposed free cut lot on the east end of the site will not be a rear lot as defined by the Regulations and therefore will comply with the Regulations. It was noted that the colored drawing being discussed at the public hearing was more recent than the copy that had been submitted with the original application materials and which had been distributed to the Commission members. The recent map is dated January 27, 2014 and includes the restricted buildable area of the proposed free cut lot so that none of that buildable area is to the rear of the existing neighboring lot to the east.

Attorney Maslan said that letters had been sent from the neighbors to the Commission and he has received copies of those letters. He said that the proposed subdivision does comply with the Regulations and that the drawings indicate a conceptual drainage plan that will need to be refined as the house designs are proposed for each property. He said that a sidewalk is located on the north side of Middlesex Road and none is proposed on the south side of the street (adjacent to the subject

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property). He said if a sidewalk was installed on Middlesex Road, it would go from Hollow Tree Ridge Road, across the site, and then would end in mid-block. Ms. Cameron said that it would actually be easier for pedestrians to cross Middlesex Road at the easterly end of this site rather than trying to cross at Hollow Tree Ridge Road where traffic is coming from four different directions.

Marian Castell, Town Historian, said that her written comments had been submitted prior to her site visit. She visited the site earlier today and did get an opportunity to go inside the house. She said that while it is a cute, wonderful old house it did not seem practical to be saved. She said that the Shaw family had owned the site since the 1850s and this old house is on many of the old maps of Darien. She said that the character of the neighborhood is important and the character is a blend of the past and present structures. Preservation on new development must be taken into account with respect to character. She said that the design of the new houses should complement the simple character of this old house and other similar houses in the area.

John Ruotolo of 225 Hollow Tree Ridge Road said that cars travel very quickly through the area and traffic is bumper to bumper at times when school is opening or closing. He said that he and the other neighbors are very concerned about the safety aspects of additional construction traffic because it could impair safety of children in the area. He said there is also confusion about whether this proposed development is two lots or three lots. Mr. Ruotolo said that the old house should be preserved.

Mary Lifton of 180 Middlesex Road said that she had already submitted a letter regarding this application. She is very concerned about the demolition of the old house. She said that the tax records showed this property to be less than 1.5 acres but now it is listed as just over 1.5 acres. She said she is not pleased with the possibility of three large, cookie-cutter style houses replacing one classic house on the property. Mr. Ginsberg said that the Tax Assessor records did show this entire property as containing 1.07 acres. That information was reviewed and an old map was found that showed the acreage should have been listed as 1.51 acres. The Tax Assessor has corrected his records to indicate the property is 1.51 acres.

Christina Amen explained that her property is across the street on Middlesex Road. She is very concerned about the driveway locations and the safety of children and pedestrians in the area. She said that there is a robust amount of traffic in the vicinity and that the traffic moves very quickly. During construction there would be much more traffic as well as vehicles entering and exiting the site.

Attorney Maslan said his client will be glad to meet with one or more of the neighbors and address their concerns regarding the traffic safety during construction.

Mrs. Castell said that it would be nice to have photo documentation of this old house before it is demolished. She said that in 2013, 40 old houses in Darien were demolished.

Mr. Sini said that he is still very concerned about the driveway location and wants to make sure that it is safe. He asked for further input from the Darien Department of Public Works regarding their permit requirements for driveway locations. Mr. Ginsberg said that it might be better to have a shared driveway located farther from the intersection. That shared driveway could serve more than one lot. He said that the Commission could close the public hearing pending the input from the

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Public Works Department or they could continue the public hearing to get that information. Mr. Olvany said that he wants the submitted maps to more accurately reflect the location of the stop bar and stop signs at the intersection and then a graphic depiction of where the existing driveways would be across the street from the proposed driveway. He said that the crosswalk should also be included in the submitted application materials. He and other Commission members agreed that it would be appropriate to continue the public hearing so that this additional information could be submitted from the applicant. The public hearing regarding this matter will be continued at 8 P.M. on Tuesday, February 11, 2014 in the Auditorium of the Darien Town Hall.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #297, Flood Damage Prevention Application #337, Kevin Walsh, Trustee, 115 & 157 Long Neck Point Road. Proposal to remove an existing bridge and to construct a new pedestrian bridge to Neds Island from 115 Long Neck Point Road, and to perform related site development activities within regulated areas. The subject property at 115 Long Neck Point Road is on the east side of Long Neck Point Road, approximately 600 feet north of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #59 as Lot #5 (#115) and Lot #12 (#157), in the R-1 Zone.

Tom Ryder represented the property owner and explained that the project involves the replacement of a pedestrian bridge that allows people to walk from the main land to Neds Island. The bridge goes from the main land property at 115 Long Neck Point Road to Neds Island, which is legally part of 157 Long Neck Point Road. There is a 15 foot wide easement to the northerly side of the property at 115 Long Neck Point Road. Several neighbors in the vicinity have access to the water via this easement through 115 Long Neck Point Road. The owner of 157 Long Neck Point Road has the right to continue beyond the water and access the bridge to Neds Island. Mr. Ryder reviewed the January 7, 2014 letter from the property owner. He said that the owner is working through the Connecticut Department of Energy & Environmental Protection (DEEP) to get the permits to do the work over the water (which is State jurisdiction). Mr. Ginsberg said that an email has been received from the DEEP indicating that tentative notice of approval of the permit application will be published in the newspaper soon. That is part of the CT DEEP permit process. Mr. Ryder said that the DEEP officials are happy with the application.

The existing pedestrian bridge has been in place since at least the 1950s. It is in very poor condition. The replacement pedestrian bridge will be in the same location but will be higher to comply with new standards. He submitted photographs of the existing bridge conditions. He said that Storm Sandy in October 2012 wiped out a portion of the bridge. Kevin Walsh, representing the property owner, indicated that other portions of the pedestrian bridge had been damaged in previous storms a decade ago. Mr. Ryder said that in Storm Sandy utility poles that lead from the main land to the house site at 157 Long Neck Point Road were damaged. Because the bridge was also damaged, it was difficult to access the areas to make the necessary repairs to the utility poles. He said that the bridge will be about 5 feet wide and the bottom of the bridge will be at elevation 14, which is the current base flood elevation in the area established by FEMA. Mr. Ryder said that the work on the shore is very minimal but needs Planning & Zoning Commission approval because it is upland of the State DEEP Coastal Jurisdiction Line. He said most of the bridge replacement work will be within the jurisdiction of the State (not the Town). He said that the shoreline sections of the

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bridge need to be raised in order to comply with the higher bridge that is required by the new standards imposed by FEMA and DEEP.

Mr. Ryder reviewed the coastal resources in the vicinity, and noted that they included tidal wetlands, flood areas, shorelines, and rocky shore fronts. He said construction techniques will be utilized to minimize the impacts on any of these coastal resources. Soil stabilization will be taken care of and they might even use special matting to stabilize the ground that does get disturbed. The result will be a pedestrian bridge to provide safe access at a slightly higher elevation. This higher elevation will allow for more room for kayaking and other use of the water and will comply with current flood requirements. He said that the water on this side of the Cove is very shallow and is not navigable by large watercraft, but kayakers do use the area. The purpose is to provide safe pedestrian access to the Island.

Mr. Walsh explained that William Ziegler Jr. owned both properties 115 and 157 Long Neck Point Road through 1953. At that time, he sold the property at 115 Long Neck Point Road and retained an access easement through that property. It was noted that the general public is not allowed to use the easement through 115 Long Neck Point Road but several property owners in the vicinity do have the right to use the easement to get to the water.

Wendy Cary of 107 Long Neck Point Road explained that her property is just to the north of 115 Long Neck Point Road. She moved in less than a week ago and was not aware of the plans until that time. She said that other owners in the area do have a deeded right to go through 115 Long Neck Point Road. She questioned whether construction vehicles will be going down the easement to build the bridge and if that disturbance would be corrected. She said that her property includes the stone wall and a narrow sliver of land on the south side of the stone wall. Therefore, the easement does not extend to the stone wall. She is very concerned that the stone wall might be considered the north portion of the easement. Mr. Ryder said that construction access will be very limited and that much of the construction work will take place from the water. He said that there would be no clear cutting of the 15 foot wide easement. Mr. Walsh confirmed that the easement is only on 115 Long Neck Point Road and does benefit some of the neighbors.

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

Chairman Cameron read the following agenda item:

Special Permit Application #280/Site Plan, John Barricelli c/o SoNo Baking Company, 49 Tokeneke Road. Proposal to establish a convenience food service establishment in the space formerly occupied by the Dock Shop at 49 Tokeneke Road. The subject property is located on the south side of Tokeneke Road, approximately 70 feet west of its intersection with Old King's Highway South, and is shown on Assessor's Map #72 as Lot #43 in the CBD Zone.

Neil Hauck, Project Architect, represented the property owner and applicant and explained that the proposed use would be a retail store for the South Norwalk Baking Company (SoNo Bakery). He said that the company has been in business for eight years in Norwalk. The proposed use involves a

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Special Permit for convenience food service. The space that they propose to occupy was formerly The Dock Shop (which has moved to an adjacent, larger space) and before that it was a liquor store. There would be an access door on the Center Street side of the building and therefore, will encourage patrons to use the municipal parking area adjacent to Center Street. A trash enclosure area will be in that vicinity. There will also be an access door from Tokeneke Road so that patrons can use the on-street parking in that vicinity. Any new signs will require application to the Architectural Review Board.

The proposed retail store will sell items that are baked at the Norwalk bakery and then brought to this site early in the morning. They will also prepare and serve coffee and similar beverages and have seating or standing area at a counter for a maximum of eight customers. There will be a reheating kitchen so that items that are prepared at a different location can be reheated for the customers. Baked products will be prepared in Norwalk and then delivered to this site. A handicap accessible bathroom will be on the property for customers. There will also be an office use for employees and a separate employee bathroom. Products sold at this store will be the retail sale of pastry items and bakery items as well as some foods available for consumption on or off site. These items would include sandwiches, coffee and similar beverages. There will not be ice cream or other food products prepared at the site.

Mr. Ginsberg said that it seemed like the menu for this facility would be similar to that of Espresso Neat, a different sales facility in town. It would include muffins, scones, cakes, pies and pre-made sandwiches. He said that there is public parking in the vicinity but there is no on-site parking. Retail use is allowed as a matter of right on this property, but the food service business and the seating for customers does require a Special Permit approval by the Planning & Zoning Commission. He said that the Police Department comments had been submitted and distributed to the Commission members. They see no problem at this time but will need to watch the area to make sure that parking and traffic movement and safety do not become issues. Mr. Ginsberg said in that respect, food deliveries would be made very early in the morning before many people are parking in the area.

Mr. Hauck explained that the project has been reviewed with David Knauf of the Darien Health Department. Mr. Knauf sees no problems with the proposed food service operations. Mr. Hauck said that they anticipate that there will be two or three workers at the site at any given time. Mr. Ginsberg said that the Commission could allow a maximum of eight seats for customers. Any additional seating or standing space at counters where customers could consume food and/or beverages, would then fall under the definition of a restaurant, which would require significant on-site parking spaces. As far as he knows, this property has never had on-site parking available.

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

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #319, Michelle Luttrell, 22 Greenleaf Avenue. Proposing to construct a parking/back around area off of the driveway and perform related site development

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activities. The subject property is located on the south side of Greenleaf Avenue approximately 530 feet west of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #26 as Lot #64 in the R-1 Zone.

Doug DiVesta, Professional Engineer, said that the re-development of this property has been taking place in phases. Phase 1 was the replacement of the garage and that work has been completed. Phase 2 is the installation of the swimming pool and that project is in process. Phase 3 is the proposed regrading for a turn-around and additional parking adjacent to the driveway. The regrading work requires Special Permit approval from the Planning & Zoning Commission. Mr. DiVesta said that the revised turn-around area will help avoid the need to back out into the street. He said that he has designed the drainage to accommodate the additional stormwater runoff from the proposed impervious surface. Mr. Ginsberg confirmed that the regrading necessary for the turn-around is what triggers the Special Permit requirement from the Planning & Zoning Commission. Commission members reviewed the application materials and plans.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application 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 opened the general meeting and read the following agenda item:

GENERAL MEETING

Discussion and deliberation only:

Subdivision Application #577-A, Coastal Site Plan Review #60-B, Land Filling & Regrading Application #318, DFK, LLC, 8 Cross Road. Proposing to raze the existing residence and garage, resubdivide the existing property into two lots, and construct two new single-family residences with associated septic systems and stormwater management, and perform related site activities in a regulated area. *HEARING CLOSED: 1/14/2014. DEADLINE FOR DECISION: 3/20/2014*

Commission members noted that stormwater management is an important aspect of the proposed plan. They asked Mr. Ginsberg to have the Town's Engineers review the stormwater drainage calculations. Mr. Sini said that the proposed development seems okay in respect to impervious surface and building coverage. Mr. Ginsberg said that he will try to draft up a resolution for review and possible action in February.

Chairman Cameron read the following agenda item:

Flood Damage Prevention Application #323, Land Filling Application #298, Benson, 17 Waverly Road. Request to amend previously approved plans.

Mr. Ginsberg noted that this property is a double lot (twice as large as many of the small properties in the area) within the Residential – Noroton Bay District. Lance Zimmerman, Project Architect, said that his client has been doing the work as approved by the Planning & Zoning Commission. They excavated the proposed rain garden area and found that it was very large compared to the small property. They are asking the Planning & Zoning Commission to allow them to convert to

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the installation of underground infiltrators rather than a surface level rain garden design. This will still allow stormwater runoff from the developed portions of the site to soak into the ground but it will not create such an encumbrance on the surface of the land. He said that revised engineering calculations have been submitted that indicate that there will be no adverse impact on the neighboring properties.

After discussion the following motion was made: That the Planning & Zoning Commission authorize the requested amendment with respect to the storm drainage so that underground infiltrator units will be substituted for the previously approved rain gardens. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Approval of Minutes

January 7, 2014 General Meeting

Several typographical and minor modifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the revised and corrected minutes. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

January 14, 2014 Public Hearing/General Meeting

Several typographical and minor corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the revised minutes. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

There was no other business to be discussed. The following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director