

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
FEBRUARY 4, 2014**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, DiDonna, Olvany, Sini Jr., Voigt (arrived at 8:15 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Fazekas

Chairman Cameron read the following agenda item:

GENERAL MEETING

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 members of the public that were present that wished to address the Commission.

Chairman Cameron read the following agenda item:

Informal discussion regarding the 40 Locust Hill Road property at the corner of Settler's Trail and Locust Hill Road (the former Knobel Brothers property).

Attorney Robert Maslan and Architect Robert Caredello represented the property owner, Penny Glassmeyer. It was explained that the property at 40 Locust Hill Road is in an R-1 Zone and contains one house and several other buildings that were formerly used by Knobel Brothers Hardware Store. Mr. Maslan said the Town Plan recognizes the fact that owners of existing residential houses are aging but the Town Plan does not make any real recommendations or suggestion how to better serve those residential property owners and their changing housing needs. He said that in this case, the owner wants the Commission to consider the possible redevelopment of this site for housing for "empty nesters". These housing units would be smaller and would have little or no maintenance required by the owners because all the common facilities and the exterior of the structures could be maintained by the homeowners association. He said that the house is currently served by an on-site septic system and they are looking into ways to connect the property into the sanitary sewer system. There is already an existing driveway from Settler's Trail and it is possible to make another driveway from Locust Hill Road but the grades in that area will need to be dealt with. He said that they are considering the possibility of seven dwelling units on the three acre +/- property.

Penny Glassmeyer showed photographs of the existing site condition. She said that the residents within the development would be 55 years or older and would not have any children that would impact the school system. Mr. Maslan said that one option would be to create a new Overlay Zone to allow this type of development where there would be more than one residence on the property or to treat this as a historic property and allow the redevelopment under the Special Permit provisions

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of the Regulations. Commission members discussed other Protected Town Landmark properties. Attorney Maslan said that they would be saving the house and possibly the old hardware store building as part of the redevelopment effort.

Ms. Cameron questioned whether affordable housing could or should be included in the development. Mrs. Glassmeyer said that the units would be age restricted and therefore would have some limitation on the pricing.

There was some discussion regarding the existing old house. It is believed to contain two or three bedrooms. Architect Robert Cardello said that the house seems to be solid and worth saving.

Mr. Ginsberg said that under Section 1051 of the Regulations the Commission can approve Protect Town Landmark status for existing structures. There was discussion regarding the development of 333 West Avenue, which is an Overlay Zone that allows for more than one house per property but this Overlay Zone only applies to the R-1/5 and R-1/3 Zones. Expanding the area where the Overlay Zone could be placed would open up most of the Town to such redevelopment if the Overlay Zone was allowed in the R-1 Zone. Mr. Maslan said that this is somewhat like a conservation subdivision development except there would be no separate dividing lines between the houses. The density however would be increased beyond what is normally allowed in the R-1 Zone (one dwelling unit per acre).

Commission members will think about the matter and submit comments to Mr. Ginsberg who will then respond to Mr. Maslan.

Chairman Cameron then read the following agenda item:

Discussion regarding rain gardens.

Professional Engineer Steve Trinkaus will discuss rain gardens with the Commission.

Steve Trinkaus, Professional Engineer, explained that bio-retention for the installation of rain gardens is part of the LID (Low Impact Development) thinking. He said that it is not “no impact” but it lessens the impact compared to typical developments allowed since the 1960’s. The purpose of the rain garden is to mimic Mother Nature in the ability to treat and absorb into the ground, the stormwater and rain water. He said that it can address water quality and water quantity. The key to rain gardens is making sure that the soils will allow for the infiltration of stormwater that has been discharged into the rain garden. The infiltration rate must be a minimum of one-half inch per hour. He said that there are some sites where rain gardens will just not work because of the soil conditions.

In response to questions, Mr. Trinkaus said that rain gardens need to be called out on the plan and even in the deeds to make sure that there is long term maintenance and functionality of the rain garden because they are an important and required aspect of the stormwater management system. He suggested that the Commission have standards and to give those standards to the engineers and contractors who install the rain gardens so the design and implementation be correct.

Commission members thanked Mr. Trinkaus for his input.

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Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #298, William & Karen Bonner, 148 Goodwives River Road.

Request to remove five trees within a regulated area.

Karen Bonner said that they purchased the property recently and they have removed the existing house a few weeks ago. Now they want to remove some of the unsafe and undesirable trees. Their landscape contractor wants to do the work while the ground is still frozen. Commission members reviewed the submitted materials, including the arborist's report. It was noted that reconstruction or reworking of the existing rock wall will require Coastal Site Plan Review by the entire Commission and will require a formal application. At this time, the proposal is merely to remove some of the dead and dying trees. The following motion was made: That the Planning & Zoning Commission approve the request to remove the dead and dying trees as noted on the submitted materials. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

With respect to the subsequent agenda items, the following motion was made: That the Planning & Zoning 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. DiDonna, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion, deliberation and possible decisions on the following:

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 discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission approve the request for this re-subdivision application subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 4, 2014**

Application Number: Subdivision Application #577-A
Coastal Site Plan Review #60-B
Land Filling & Regrading Application #318

Assessor's Map #65 Lot #8
Street Address: 8 Cross Road

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Name and Address of Property Owner:
And Applicant: DFK, LLC
47 Elm Street
New Canaan, CT 06840

Name and Address of
Applicant's Representative: Rob Frangione, PE
Frangione Engineering
15 Snowberry Lane
New Canaan, CT 06840

Activity Being Applied For: 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.

Subject Property: The subject property is located on the north side of Cross Road, approximately 250 feet east of its intersection with Tokeneke Trail.

Zone: R-1

Date of Public Hearing: November 26, 2013 continued to January 14, 2014

Time and Place: 8:00 p.m. (Room 206 Nov mtg.) & (Room 119 Jan mtg.) Darien Town Hall

Publication of Hearing Notices

Dates: November 15 & 22, 2013 Newspaper: Darien News

Date of Action: February 4, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
February 14, 2014

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 and all applicable sections of the Subdivision 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 showing the proposed two lot subdivision, and the testimony 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:

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1. The applicant proposes 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. The subject property is 3.183+/- acres in an R-1 Zone.
2. There are no inland wetlands on the subject property, and two portions of the property are in the flood zone—an area along the northern boundary and an area along the eastern boundary of the property. No work is proposed within the regulated flood zones, other than the installation of a footing drain for proposed lot 4B (the easternmost proposed lot).
3. Kristal Kallenberg of the Connecticut Department of Energy & Environmental Protection sent an e-mail dated November 18, 2013, noting that she has "...reviewed the application materials for consistency with the applicable policies of the Connecticut Coastal Management Act (CCMA) CGS Sections 22a-90 through 22a-112, inclusive] and find no inconsistencies with the proposal."
4. At the first public hearing on this matter in November, 2013, the Commission noted its concern with the proposed stormwater management, and tree protection. It was suggested that the Commission continue the public hearing so that the applicant can come back with more detailed information about the rock ledge associated with the stormwater management, proposed planting/landscape plan, and more details about the rain garden area. It was also noted that the applicant needs to correct the numbers on the zoning chart, and prepare a specific impervious surface estimation. On December 3, 2013, Planning and Zoning Director Jeremy Ginsberg emailed a number of comments on the application to the applicant's representative. Revised plans were submitted on December 26, 2013, and a Planting Plan was submitted at the January 14, 2014 public hearing addressing the concerns voiced by the Commission and the Planning and Zoning Director.

TREE REMOVAL/PRESERVATION

5. The submitted Sedimentation and Erosion Control Plan, revised 12/23/13, clearly shows the trees to be protected and preserved as part of this project. This includes, but is not limited to, the maple trees near Cross Road, and the cherry trees near the rear of the property.
6. At the January 14, 2014 public hearing, the applicant's representative referred to a sketch showing a possible redesign of the driveway on Lot A, in order to preserve the existing 36" Chestnut tree, which is shown to be removed on the Sedimentation and Erosion Control Plan. The submitted Planting Plan dated 12/23/2013 also shows the redesign allowing the 36" chestnut to be protected and saved.
7. At the January 2014 public hearing, it was noted that this revised plan would create green space around the tree in front of the house. Professional Engineer Rob Frangione explained that the amount of impervious surface is roughly comparable to the previous plans submitted. He said that he could add some Cultec units to accommodate any new impervious surface as a result of this revised driveway plan.

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8. The subject property was originally part of Subdivision Application #577, approved by the Commission in 1988. At that time, the property around this residence/lot was divided. There were questions at the 2013 & 2014 hearings by the Commission related to the Declaration of Restrictions from the original 1988 subdivision. Mr. Bruce Hill, the attorney for the applicant, noted that he has reviewed that document, and nothing is inconsistent between this application and the original subdivision approval. The Commission also finds that there are no inconsistencies.

STORMWATER MANAGEMENT

9. It was noted during the public hearing that runoff from this property eventually flows into Tokeneke Brook, which is a tidally influenced body of water.
10. Professional engineer Rob Frangione explained that both properties are within the lower one-third of the water shed area, thus, the stormwater runoff design is not required to hold back runoff from a 50 year design storm, but being mindful of the potential impact on the neighbors, they are treating the water before it gets to the neighboring driveway.
11. At the public hearing, professional engineer Rob Frangione explained that the proposed redevelopment will result in approximately 5,200 square feet of additional impervious developed area. Stormwater runoff from proposed Lot 4A (the proposed western lot) would be managed by allowing the water to go in different directions. Roof runoff would be directed to splash pads at the rear of the house and then the water would be allowed to flow over the surface of the ground in a northerly direction as it does today. Driveway runoff would be directed into Cultec units to be located on the southwest side of the property. He said that the stormwater controls do not include a rain garden in this area because it would be large and out of character with the area.
12. Mr. Frangione said that the stormwater runoff from proposed Lot 4B (the proposed eastern lot) would be directed into Cultec units to be located to the east of the proposed house. Driveway runoff would be directed into a 180 square foot rain garden that would be installed in the southeast corner of the property (the Drainage Summary report notes the size of the rain garden as 180 square feet, and the Overall Site Plan lists it as 170 square feet). He said that the stormwater runoff design is to manage water quality but would also result in a slight decrease in the peak runoff after the development compared to the current runoff conditions.
13. Mr. Frangione said the drainage heading in the easterly direction will include approximately 3,700 square feet of new/additional increased impervious area. With respect to the drainage on proposed Parcel 4B, it was noted that stormwater runoff from the driveway would need to be channeled around the rock outcrops/ledge and into the rain garden. The rain garden is proposed to be just uphill of the driveway on the neighboring property and is close to ledge as shown on the map. Mr. Frangione said that soil testing in the area indicates that the area of the proposed rain garden is a sandy soil type of material.
14. Mr. Frangione indicated that water will flow from the driveway to the lawn to the proposed rain garden. The water flow is based upon the proposed grades. The only ledge to be removed in that area is for part of the proposed driveway. Some ledge will remain in that area. They

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- will be relying on the contours and on-site micrograding. They do not need any channelization.
15. It was noted that the Assistant Director of Public Works submitted comments that the applicant should use the “fresh meadow” approach for the stormwater drainage calculations because that is what is applicable when the existing house is removed and new construction is proposed. This approach can be waived by the Commission under Section 888 of the Zoning Regulations, due to factors such as the location of the subject property within the watershed. In this case, the property is in the lower 1/3 of the watershed.
 16. Mr. Frangione responded that the existing property is in the lower 1/3 of the watershed, and the drainage has been designed to not impact the road or the neighboring properties. They have addressed water quality in the submitted plans, but have not designed to the “fresh meadow” approach. In this specific case, because of the property’s location, they have proposed Cultec units on one lot, and Cultec units and a rain garden on the other lot. Mr. Frangione explained that the rain garden is not designed for large storms—it can only accommodate one inch of rainfall.
 17. Mr. Frangione indicated that approximately three foot depth of ledge needs to be blasted on proposed Lot 4B for both the grading and the proposed plantings along the shared property line between Lots 4A and 4B.
 18. The Commission notes the need for the applicants to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system 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 impacts to adjacent properties.
 19. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
 20. As revised, the proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
 21. The proposal conforms to the standards for approval as specified in Sections 810 and 850 of the Darien Zoning Regulations.
 22. 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.
 23. 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.
 24. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

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25. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #577-A, Coastal Site Plan Review #60-B, Land Filling & Regrading Application #318 are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision and other work on the subject properties shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein:
- Property Survey & Topographic Survey for Two Lot Resubdivision prepared for DFK, LLC 8 Cross Road, by William W. Seymour & Associates, revised December 17, 2013.
 - Proposed Site Plan & Two Lot Subdivision for DFK, LLC, 8 Cross Road, Overall Site Plan, by Frangione Engineering, LLC, dated October 18, 2013 and revised 12/23/13, Sheet No. S1
 - Proposed Site Plan & Two Lot Subdivision for DFK, LLC, 8 Cross Road, Details & Notes, by Frangione Engineering, LLC, dated October 18, 2013 and revised 12/23/13, Sheet No S2.
 - Proposed Site Plan & Two Lot Subdivision for DFK, LLC, 8 Cross Road, Sediment & Erosion Control Plan, by Frangione Engineering, LLC, dated October 18, 2013 and revised 12/23/13, Sheet No S4.
 - Planting Plan, Proposed Residences, 8 Cross Road, by Eckerson Design Associates, dated 12.23.2013.

The revised Planting Plan shows a revised driveway configuration on Lot A, which aims to preserve the existing 36" Chestnut tree. An 8-1/2" x 11" sketch of that site configuration was distributed to the Commission at the January 14, 2014 public hearing. That site configuration shall be implemented, and shall be shown on the Zoning and Building Permit applications for the house on Lot 4A. The Overall Site Plan and Sediment and Erosion Control Plan shall be revised to reflect the modified driveway on Lot 4A designed to preserve the 36" Chestnut tree.

- B. Additional Cultec units shall be installed to accommodate for the additional impervious surface created by the driveway revision noted above. The specific number of Cultec units to be installed shall be calculated by a professional engineer. Future development of these lots beyond that showed on the submitted plans may require additional stormwater management in the future. Due to the location of the property within the lower 1/3rd of the watershed, the Commission hereby waives the use of the "fresh meadow" approach. However, very specific stormwater management is being required herein to be implemented. Future stormwater management may also be needed if the amount of impervious surface proposed is greater than that shown on the approved plans.
- C. In order to minimize potential blasting or hoe ramming to remove the existing rock, the Commission is not requiring the installation of the trees along the shared property line in the area of the ledge. Thus, this area can be blasted or rammed only to elevation 23, rather than the

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2-3 feet lower to allow for tree planting, as noted by the Planting Plan. The Planting Plan shows 12'-14' Norway Spruces along the shared property line, with one or two of those trees within the area shown on ledge. Strategic placement of the trees shall be done so as to minimize rock removal.

- D. To ensure safety, all construction vehicles must park on-site, rather than on the street in front of the subject property.
- E. All utilities serving these properties shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- F. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- G. In accordance with Article IV Section C2 of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this subdivision.
- H. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- I. The rain garden on Lot 4B has been noted on the plans as 170 square feet, and in the Drainage Summary report as 180 square feet. The plans shall be revised to reflect it as 180 square feet of flat bottom surface area as noted in the report. It shall be constructed to be that size or larger, and include the plantings as shown on the Planting Plan.
- J. The Commission notes that specific house footprints were shown for each lot. As part of the development of each parcel, and related to that specific house footprint design, a detailed storm water management/drainage plan was prepared. Copies of that drainage plan shall be submitted with any application for Zoning and Building Permits for construction on each lot. Each plan shall be implemented, as shown, to assure that development will not have any negative impact upon the street or neighboring property(ies).
- K. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, making provisions for the diversion of water around disturbed areas, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- L. Prior to the issuance of a Zoning Permit for either of the proposed residences, a drainage maintenance plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Darien Land Records by the applicant or property owner. The maintenance plan shall require the property owner and all subsequent property owners of each lot to maintain the drainage facilities per the maintenance plan.
- M. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted in Condition A, above, and any additional measures as may be necessary due to

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site conditions. The submitted Sediment & Erosion Control Plan shows one curb cut to be used during the construction process, with appropriate anti-tracking pad at the construction entrance. This Plan also shows the required construction fence around certain trees to protect them through the demolition and construction process. This construction fence/tree shall be installed prior to the demolition of the existing residence and garage, in order to minimize potential impacts to the trees during that process.

- N. All 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.
- O. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- P. A Professional Engineer shall submit certification that the required drainage, site grading and structural elements of each foundation have been properly implemented per the approved plans prior to the issuance of a Certificate of Occupancy of either residence.
- Q. This approval of this subdivision 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 agency. The Commission notes that approval from the Health Department will be needed to abandon the existing septic system, and to construct two new septic systems. A demolition permit for the existing house will need to be obtained from the Building Department, and any blasting to be done on-site requires a permit from the Darien Fire Marshal. Since Cross Road is a private street, they will also need to obtain approval from the Tokeneke Association for the new driveway locations and curb cuts.
- R. 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 approval as it deems appropriate.
- S. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within two (2) years of this action (February 4, 2015). 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 [the final revised mylar showing lot number(s) and street address(es)], shall be submitted to the Planning and Zoning Department for review and

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signature. The applicant must obtain a demolition permit and raze the existing residence and garage prior to filing the map in the Darien Land Records. Because that will take some period of time, the Commission hereby authorizes the applicant up to six months from the date of this action (until August 4, 2014) to file the map and appropriate deeds in the Darien Land Records or this approval shall become null and void.

A Special Permit form and "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within 60 days of this action and prior to the demolition of the existing residence and garage proposed as part of this application, or this approval shall become null and void.

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. *DEADLINE FOR DECISION: 4/3/2014*

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve this Special Permit subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. DiDonna. All voted in favor except for Mr. Voigt, who abstained because he was not at the public hearing for this matter. The motion passed by a vote of 4-0-1.

The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 4, 2014**

Application Number: Special Permit Application #280/Site Plan

Street Address: 49 Tokeneke Road
Assessor's Map #72 Lot #43

Name and Address of Applicant: John Barricelli
101 Water Street
Norwalk, CT 06854

Name and Address of Applicant's Representative: Neil Hauck, AIA
Neil Hauck Architects, LLC
859 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner: Reid Everett LLC
49 Tokeneke Road
Darien, CT 06820

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Activity Being Applied For: Proposal to establish a retail store selling food and beverage items (a convenience food service establishment) in the space formerly occupied by the Dock Shop at 49 Tokeneke Road.

Property Location: 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.

Zone: CBD

Date of Public Hearing: January 28, 2014

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

Publication of Hearing Notices
Dates: January 17 & 24, 2014

Newspaper: Darien News

Date of Action: February 4, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: February 14, 2014

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 650, 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 plan, 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 applicant proposes to establish a retail store selling beverages, sandwiches, and other prepared foods (a convenience food service establishment) in the first floor space formerly occupied by the Dock Shop at 49 Tokeneke Road.
2. The property is served by public water and sewer, and is located within the CBD Zone in downtown Darien. In the CBD Zone, the sale of prepared foods for consumption on or off the premises is a Principal Use Requiring a Special Permit per Section 654c. No cooking is proposed as part of this operation.

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3. At the public hearing, it was noted that SoNo Baking would be doing all cooking off-premises, and then bringing baked and prepared foods in by van each day. There will be no cooking on-premises, other than the preparation of coffee, tea and other drinks. There is also a reheat kitchen, which will allow for some sandwiches to be reheated in a toaster. Reheating in a microwave is also permitted.
4. A Proposed Floor Plan was reviewed during the public hearing. This floor plan shows the creation of a new trash enclosure and a new door in the rear of the building for entry from the Center Street North municipal parking lot. A new fence in the rear of the building is also proposed.
5. No outdoor seating/dining is proposed as part of this application. Eight indoor seats are proposed. This is the maximum seating allowed on the site due to the regulations and the lack of any on-site parking spaces. The approved use is a retail store and the ancillary use is the convenience food service for on-site consumption.
6. The submitted Proposed Floor Plan shows a new trash enclosure to be installed. It is up to the property owner to ensure that trash would be picked up sufficient times during the week to not cause a nuisance.
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.
11. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #280/Site Plan is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. All interior construction and related activity shall be in accordance with the plan submitted to and reviewed by the Commission:
 - SoNo Baking Company 49 Tokeneke Road, Proposed Floor Plan by Neil Hauck Architects, dated 12/13/13, Sheet A-1.

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It is acknowledged that the floor plan may need to be modified in response to comments by the Fire Marshal and/or the Darien Health Department.

- B. Because of this property's location in downtown, and because of the fact that no new impervious surface is created as part of this project, the Commission hereby waives the requirement for stormwater management as part of this application as allowed by Section 880 of the Darien Zoning Regulations.
- C. Because of the nature and location of the proposed use, and because of the existing site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. No delivery vehicles shall be double parked or inappropriately parked on Tokeneke Road or Center Street.
- D. At the public hearing, it was noted that the prior tenant in this building was the Dock Shop, and prior that, it was a liquor store. Adjacent to this space to the south, which is now the Dock Shop, was formerly Pedal and Pump. Pedal and Pump at one point was permitted to have a workout space in its second floor. It was noted during the public hearing that SoNo Baking will have three employees maximum on-site at any one time.
- E. The submitted floor plan shows eight seats within the store. Any increase of indoor or outdoor seating in the future requires prior review and action by the Planning & Zoning Commission. The lack of on-site parking spaces will likely limit or prohibit any increase of seating.
- F. It is noted within the application materials that SoNo Baking intends to be open from 7am to 6pm each day. Because of the shop's specific location within downtown Darien, there is no limit or restriction on the hours of operation of this establishment.
- G. To avoid early morning or late night trash pick up that could unreasonably disturb others, garbage pickup shall be done on an "as-needed" basis, and shall occur only between the hours of 7:30am-12 noon, or from 1:30pm to 8:30pm. Because of the other uses nearby, trash should not be collected during the "lunch-time rush", and it may need to be collected more often than it is currently.
- H. The new trash enclosure area shall contain all trash, garbage and recycling bins and containers which will be stored outside. It shall be neatly maintained, and it shall continue to be screened with a stockade (or similar) doors around it. Those doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use.
- I. Prior to the issuance of a Zoning or Building Permit for the shop, final interior floor plans and equipment plans shall be reviewed by the Fire Marshal and Darien Health Department.
- J. No cooking has been proposed, nor is any allowed. Any odor complaints from commercial and/or residential neighbors shall also be reviewed and investigated by the ZEO. The tenant

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shall then take appropriate measures to minimize odors from occurring and shall take prompt action to correct any and all odor problems that do occur.

- K. All interior site work shall be properly completed prior to the use of this space and/or the issuance of a Certificate of Occupancy for the food service establishment.
- L. Proposed signage and/or any changes to the exterior of the building are subject to prior application to, and action by, and permitting by the Architectural Review Board (ARB).
- 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 Special Permit/Site Plan does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final kitchen review by the Darien Fire Marshal and the Darien Health Department. Any proposed signage, awning, or façade changes require review and action by the Architectural Review Board (ARB).
- 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 4, 2015). This may be extended as per Sections 1009 and 1028.

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 shall be filed in the Darien Land Records within sixty days of this approval or this permit shall become null and void.

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 activities. *DEADLINE FOR DECISION: 4/3/2014.*

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. Sini. All voted in favor except Mr. Voigt who abstained because he had not been present at the public hearing. The motion passed by a vote of 4-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 4, 2014**

Application Number: Land Filling & Regrading Application #319

Street Address: 22 Greenleaf Avenue

Assessor's Map #26 Lot #64

Name and Address of:
Property Owner: Michelle Luttrell
22 Greenleaf Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Name and Address of
Applicant: Michael Ceci
740 North Street
Greenwich, CT 06831

Activity Being Applied For: Proposing to construct a parking/back around area off of the driveway and perform related site development activities.

Property Location: The subject property is located on the south side of Greenleaf Avenue approximately 530 feet west of its intersection with Hollow Tree Ridge Road.

Zone: R-1

Date of Public Hearing: January 28, 2014

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

Publication of Hearing Notices

Dates: January 17 & 24, 2014

Newspaper: Darien News

Date of Action: February 4, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

February 14, 2014

Newspaper: Darien News

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

- the proposed 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 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 parking/back around area off of the driveway and perform related site development activities. This extra paved area will also serve as extra on-site parking.
2. The driveway back around area will be graded so that stormwater will be directed toward a catch basin, then into a pipe which will then run toward the back yard. There will be zero increase in runoff. A small curb/retaining wall is proposed to be installed to minimize water flow toward the neighbor to the east.
3. As part of this application, a Site Engineering Report dated December, 2013 was submitted by DiVesta Civil Engineering Associates. That report notes that the work outlined within this application request is actually part of other work ongoing at this property. As a result of all of this work, stormwater management has been proposed by the applicant. 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.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. 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 and Regrading Application #319 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

A. Land filling and regrading work for the driveway shall be in accordance with the following plans:

- Luttrell Residence 22 Greenleaf Avenue, Proposed Drainage Plan, by DiVesta Civil Engineering Associates, Inc., dated 06/26/13, last revised 12/03/13, Sheet 1 of 1.
- Improvement Location Map prepared for Michelle Luttrell, by Moody & O'Brien, LLC, scale 1"=30', dated September 9, 2013 with information last added December 12, 2013.

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- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans noted in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading 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, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. As part of this application, a Site Engineering Report was submitted for the record. Appendix A of that report is a Stormwater Management Operation and Maintenance Plan for 22 Greenleaf. This Plan requires the property owner and all subsequent property owners of 22 Greenleaf Avenue to maintain the on-site drainage facilities, and 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. 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 the filling or regrading work requested in this application.
- 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 residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and drainage have been completed in compliance with the approved plans referred to in Condition A, above.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. 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 agency.
- 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 and completion of the approved plan within one (1) year of this action (February 4, 2015). This may be extended as per Section 858.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon 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 60 days of this action and prior to the start of any filling or regrading work proposed as part of this application, or this approval shall become null and void.

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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. *DEADLINE FOR DECISION: 4/3/2014*

Commission members discussed the draft resolution. They noted that the easement travels through the property at 115 Long Neck Point Road and the upland side of the footbridge starts on that property. The pedestrian bridge then goes across the water to Neds Island which is part of the property at 157 Long Neck Point Road. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini and seconded by Mr. Olvany. All voted in favor except Mr. Voigt who abstained because he was not present at the public hearing. The motion passed by a vote of 4-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
FEBRUARY 4, 2014**

Application Number: Coastal Site Plan Review #297
Flood Damage Prevention Application #337

Street Address: 115 & 157 Long Neck Point Road
Assessor's Map #59 Lot #005 and #12A

Name and Address of Applicant &: Kevin Walsh, Trustee
Property Owner: Whitman Breed Abbott & Morgan, LLC
500 West Putnam Avenue
Greenwich, CT 06830

Name and Address of: Thomas Ryder
Applicant's Representative: LandTech
31 Franklin Street
Westport, CT 06880

Activity Being Applied For: 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.

Property Location: 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.

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Zone: R-1

Date of Public Hearing: January 28, 2014

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

Publication of Hearing Notices

Dates: January 17 & 24, 2014

Newspaper: Darien News

Date of Action: February 4, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 14, 2014

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 development plans, and the statements of the applicant and 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 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 submitted plans show the extent of work. At the public hearing, the applicant's representative noted that much of the work associated with the bridge replacement is in State of Connecticut jurisdiction. Only the portions of the ends of the bridge (about 40 feet at one end and 47 feet at the other end) are within Darien Planning and Zoning Commission jurisdiction.
2. There is now a sixteen foot easement along the northern property line of 115 Long Neck Point Road. There has been a pedestrian bridge at the eastern edge of that property since the late 1950s. The new bridge is proposed in the same location. The bridge will be about five feet wide, thereby limiting its use for pedestrians only. The new bridge will meet current code, and will be elevated higher than the former bridge.
3. The State of Connecticut DEEP sent an email dated January 27, 2014 noting that they "...plan to move forward with a Tentative Notice to Approve the Application in the very near future."

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4. 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.
5. 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.
6. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
8. 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 #297 and Flood Damage Prevention Application #337 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Renfrew & Cynthia Brighton, 157 Long Neck Point Road, Reconstruction of a Pedestrian Bridge for Ned Island Site Plan, by LandTech, dated 12/12/13, Sheet C-1.
 - Renfrew & Cynthia Brighton, 157 Long Neck Point Road, Reconstruction of a Pedestrian Bridge for Ned Island Cross Sections & Details by LandTech, dated 12/12/13, Sheet P-1.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. Due to the limited amount of new impervious surface as part of this project, the Commission hereby waives the requirement for stormwater management.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted plans in Condition A, above, and any additional measures, including but not limited to the biodegradable matting as discussed at the Public Hearing, and 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. Once the project is complete, and prior to February 4, 2015, the applicant shall submit a final “as built” map and written certification from the project engineer that all work has been properly completed in accordance with the approved plans.

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- 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. This includes, but is not limited to, final approval from the State of Connecticut DEEP.
- 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 4, 2015). This may be extended as per Sections 815 and 829f.

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 then read the following agenda item:

Discussion of Board of Selectmen E-mail policy.

Commission members discussed the e-mail policy. Mr. Ginsberg said that the Town is in the process of making e-mail accounts for each elected or appointed official so that e-mail can be sent and kept separate from their personal email accounts. He will advise the Commission if there is any change.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany, and unanimously approved. The meeting was adjourned at 9:16 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director