

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 8, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Voigt, Cunningham, DiDonna

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #138-D, Flood Damage Prevention Application #140-D, Land Filling & Regrading Application #283, Gavin & Melissa Baiera, 26 Shipway Road. Proposing to construct a pool, and related pool terrace; install pool equipment and rain garden, and perform related site development activities within regulated areas. The subject property is located at the north side of Shipway Road, approximately 300 feet east of its intersection with Plymouth Road, and is shown on Assessor's Map #57 as Lot #43, in the R-1 Zone. *HEARING OPENED 10/23/2012 AND WAS CONTINUED TO 11/20/2012.*

The Public Hearing on this matter will be continued on January 15, 2013.

Chairman Conze then read the following agenda item:

Coastal Site Plan Review #278, Flood Damage Prevention Application #310, Land Filling & Regrading Application #284, Justin & Mary Beth Livengood, 12 Cross Road. Proposing to raze the existing residence; construct a new single-family residence with associated septic system; modify the driveways; and perform related site development activities within regulated areas. The subject property is located on the northeast corner formed by the intersection of Cross Road and Hope Drive, and is shown on Assessor's Map #65 as Lot #1, in the R-1 Zone.

Project Architect, Doug VanderHorn, explained that the existing house will be removed and a new residence will be constructed at 12 Cross Road, which is on the corner of Hope Drive. Driveway access will be from Cross Road and there no longer will be any access driveway to Hope Drive. The septic system is proposed to be relocated to the west and south sides of the proposed house. He showed an illustration of the proposed two-story colonial residence.

Lewis Frisco, Landscape Architect, said that there is a severe slope from the rear of the property down to Cross Road. As part of the redevelopment of the property, they will be regrading the site to create several level terrace areas. This will allow them to have a patio behind the house. There will be two curb cuts on Cross Road to create a half circle driveway. He said that some of the landscape features are designed to capture storm water. He said that many of the rocks on the site will be used to implement the regrading and terraces. He said that the floor level of the new house will be 2½ to 3 ft. higher than the floor level of the existing house.

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Mr. VanderHorn said that the grades to the new house are being adjusted to accommodate the driveway because some of the driveway will have the septic system located underneath it. He said that the existing grade of the house is at 14.5 and the floor level of the new house would be at 17. He said the existing house is a one-story ranch style and the new house will be a two-story structure that is 29.5 ft. tall as defined by the Darien Zoning Regulations. He said that the existing driveway on Hope Drive will be eliminated.

Mr. Frisco said that the lifting of the house works better with the grades and the creation of the proposed flat areas. The flat areas will help to capture some of the storm water on the site and to move it into the landscaped areas.

Peter Finkbeiner, Professional Engineer, said that when this project was first being designed, he met with Darren Oustafine of the Darien Public Works regarding the management of storm water runoff. Since Cross Road and Hope Drive are not public streets (they are private streets located within the Tokeneke Neighborhood Association), Public Works would not get involved much, but Public Works did indicate that it would not be necessary to detain storm water for a 50 year storm duration. This is the case because this property is very close to the discharge of fresh water into the brackish water of the tidal marsh that is located just south of Cross Road and north of Long Island Sound. Mr. Finkbeiner said that proper management of the water is necessary with respect to water quality and thus they have deep sumps on the catch basins in order to trap sediments. He said that the design is to catch the storm water from this site and direct it into the drainage system adjacent to the street. It will then be directed through existing pipes into the tidal marsh area. As is the case today, when the flood waters of the Atlantic Ocean and Long Island Sound rise and inundate the tidal marsh area, the fresh water drainage system under Cross Road will become backed up because there is then no place for the water to discharge.

Mr. Spain said that the neighbor appears to understand that the flooding caused by the rise of Long Island Sound is not something that will be changed, but the neighbor does appear to be concerned about the water from rainstorms and how that water will flow from this site, through the neighbor's property.

Mr. Finkbeiner said there will be a slight increase in the amount of impervious surface comparing the current development and the proposed development. The current drainage surface water flows downhill from the site across the street and then into the neighbors' property. It then goes over the neighbors' property and into the tidal marsh. The plan is to collect the surface water at the bottom of the subject property and then to connect it into the pipes that will allow the water to flow under the neighbors' property and then to be discharged at the tidal marsh at approximately Elevation 5. He said that this results in no increases to the flooding of the neighbors' property, which is actually caused by the rise of the tide and not by the surface water. He said that the neighbor in question, Mr. Moynahan, is actually located to the east of the drainage pipes and the discharge into the watercourse.

Mr. Finkbeiner said that the original design had proposed two new pipes crossing under Cross Road, but this design was modified at the request of the Tokeneke Association. Now the design is just to have one pipe across under the street and connect into the existing catch basin and pipe system that the Association maintains.

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In response to a question, Mr. VanderHorn said that the horseshoe shaped driveway is to be constructed of stone, but it will be on compacted material that would be so hard that it is considered to be impervious.

Mr. Finkbeiner said that the wetlands to the south of Cross Road will not be impacted. He said that if he ran a detailed, statistical analysis, it would demonstrate that the only time flooding occurs is when the tide is high and thus, the fresh water is not able to be discharged from the drainage pipes.

Mr. Ginsberg said that under Section 880e, the detailed drainage study is not necessary if no application needs to be submitted to the Planning & Zoning Commission. If a plan needs to be submitted to the Commission, then the provisions of Section 888 would apply and a waiver could be granted by the Commission if they are convinced that a detailed drainage study is not necessary.

Mr. Conze said that it appears that a small portion of the site might release water toward the neighbor and that the plan is to capture that surface water in catch basins and then convey it via pipes into the existing drainage system in the street. He said that the applicant needs to demonstrate that the way in which they have designed the drainage system will not impact the neighboring properties and that the Commission needs documentation for the record that will substantiate that claim. He said that everyone understands that the rising of the tide in Long Island Sound will continue to cause back-up of water and flooding, but the concern is for the routine rain storms that occur on a frequent basis.

Mr. Ginsberg said that a 1½ page Drainage Report, dated October 12, 2012, was submitted.

Commission members felt that the Drainage Report needs to be supplemented with additional information to illustrate how the runoff water will be managed in a manner that will not impact the neighbors.

Mr. VanderHorn said that all the current flows from the subject property go downhill to Cross Street and then flow on the surface across the street and into the neighbor's property. The proposed drainage system will catch the water before it reaches the street and put that water into the drainage system that is underneath the street.

Mr. Voigt asked if the surface flows would be slowed by the regrading and landscaping and, if so, that information needs to be documented.

Another question was raised regarding the roof pitches and whether the change in roof pitch will increase the volume or speed of the runoff.

Mr. Finkbeiner indicated that whether a roof is a gentle pitch or a steep pitch, the amount of runoff is the same. At present, the gutters and leaders discharge water on the ground and it flows down to the street.

Commission members felt that it would be appropriate to continue the public hearing on January 15th so that additional information can be submitted.

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Mr. Moynahan of 21 Cross Road said that his property is located in the flood zone on the south side of Cross Road. He was very concerned about any increases in the storm flows from the subject property. He said that the water needs to be properly managed to avoid any damage to his property. He said that more details are necessary regarding the management of the storm water. He did say that he would be leaving town in mid-January and will not return until February 4th.

Mr. Spain said that it would be incumbent on the applicant to quickly provide additional storm drainage management information to the Commission and to the neighbors so that the Commission could continue and hopefully conclude the public hearing on the 15th of January. If the Commission and the neighbors are not satisfied with the information provided at that time, it might be necessary to continue the public hearing into February.

Mr. Moynahan said that the storm drainage pipes seem to work now during a typical rain storm and that they do not back up into Cross Road unless it is a very high tide.

Michael Huebsch of 17 Cross Road said that the tidal flood waters are not the issue, but the big concern is how storm water will be handled during rain storms. He said that there is an accumulation of storm water on several properties in the area including his. He said that this is a very delicate eco system and changing the rainwater management plan and how the rainwater is directed into Long Island Sound is of great concern. He said that the water does not go directly into Long Island Sound from the subject property, but, instead it must go through several other properties. He also noted that the drainage system in the street is very old. He said that formal approval from the Tokeneke Association is necessary before applicants would be able to implement the changes to the drainage system.

Mr. DiDonna said that it appears that if the hearing is concluded without the connection to the drainage system and without the approval from the Association to make those changes to the drainage system, it does not appear that the design system will be able to work.

Mr. Heubesch said that details are very lacking.

Doug VanderHorn referred to the December 27, 2012 email from Sam Fuller, Chairman of the Road Committee, indicating approval of the drainage design. Mr. VanderHorn said that the applicant will work with the neighbors and the Association to provide the information that the Commission wants and to resolve any issues or concerns that the neighbors have. He said that the storm water ends up in Cross Road now and they have just designed a better way to manage that water.

It was agreed to continue public hearing on January 15, 2013 at 8:00 P.M. and that the meeting was probably going to be held in Room 119 of the Town Hall. Hopefully, by Friday, January 11th at noon, the applicant's engineer can provide sufficient information for the Commission and to the neighbors to address the issues that have been raised. If the information is not adequate, then at the meeting of January 15th, a decision will be made whether to continue the public hearing until February.

There being no further public hearing items, the general meeting was started.

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Chairman Conze read the following agenda item:

GENERAL MEETING

Business Site Plan #258, Kleban Day Street LLC, 1015 Boston Post Road, CBD Zone.

Request for Massage Envy as a first floor tenant in the 1015 Boston Post Road building now under construction.

Attorney Amy Zabetakis represented the owner of the front building. She explained that the re-development of the property had been approved in 2008 and several extensions had been granted. Eventually, there will be two new buildings, one on the corner of Boston Post Road and Day Street and the other on Grove Street. Both buildings will share the parking lot that is to be located between the two structures. The proposed use of the first floor of the front building will be "Massage Envy." She reviewed her letter that was submitted last week. She said that the definition of Personal Service Use is contained within the definition of Commercial Sales and Services within the Zoning Regulations. The original approval was for the development of the property was for retail use of the first floor. The definition of retail within the Regulation refers to commercial sales and services. She said that the Minutes and Resolution of the Planning & Zoning Commission's action to approve this re-development does not contain any requirement or limitation that would prohibit "Massage Envy" from being the tenant in the first floor.

Attorney Zabetakis referred to the Adopted Resolution for "Chipotle" on Boston Post Road and submitted a copy of that Resolution. She said that Finding #13 makes it clear that the approved use was clearly for a drive-thru coffee shop and any change or different use would need to return to the Planning & Zoning Commission before such change of use would be approved. She said that there is no such requirement in the Resolution of approval for 1015 Boston Post Road. She said that, in fact, this is not a change of use because of the way the definitions of personal service, commercial sales and service and retail are set out within the Zoning Regulations. She said that this is a retail use. She submitted a copy of the Resolution for 1014-1020 Boston Post Road and said that the approved use in that building was retail and that Williams & Warren, now known as Williams & Company, is a personal service that is located on the first floor. She submitted information about "Massage Envy" franchises that are currently at other locations.

Attorney Zabetakis said that nothing indicates that this use would need any further approval and review by the Planning & Zoning Commission. She said that it is very important that the Planning & Zoning Commission avoid creating uncertainty with respect to its Regulations and its approvals. The Commission cannot confuse property owners or perspective buyers by having ambiguity or uncertainty within the Regulations or the approvals. There was some discussion about the Traffic Study that was submitted with the original application. It constantly refers to retail spaces on the first floor of each of the proposed buildings. She said that the Traffic Study does not define retail space.

Chairman Conze said that the proposed use would create a very heavy parking demand that might or will create a parking problem due to the very limited on-site parking for this development.

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Ms. Zabetakis said that nothing in the approval requires that they come back to the Commission for review of the parking demand for a particular business.

Ken Kleban explained that he is the developer of the front building at 1015 Boston Post Road. When asked about the status of the project, he explained that excavation for the foundation has been completed, but, in response to complaints from David Genovese, who owns the adjacent property, all construction has been halted. He said that his engineers have worked out various solutions to address Mr. Genovese's concerns about the structural stability of his adjacent building and potential impacts of the drainage upon his building, and he hopes that the engineers will resolve this matter in the near future so that construction will continue shortly.

Mr. Spain asked about the timing of the completion of the parking with respect to the completion of the front building.

Mr. Kleban said that the original phasing plan for the development of the property involved construction of the building on Grove Street as the first phase and the building of the Boston Post Road structure as the second phase. The original developer, Albert Orlando, came to the Commission and received an amendment to reverse the order of construction. There was some discussion about how many of the 12 parking spaces would be completed and available for use when the front building was ready to be occupied. Mr. Orlando said that the Commission authorized some of the parking spaces to be obstructed and used as staging areas for the construction of the Grove Street building. Mr. Kleban said that he is making efforts to make sure that there are enough parking permits for the employees when the front building is ready to be occupied. He said that they will comply with all approvals and make sure that at least 9 of the on-site parking spaces are available for customers and residents when the front building is completed. Three of the 12 parking spaces would be used as the staging area for the construction of the back building.

Mr. Spain asked questions about the services provided and the method of operation at "Massage Envy." Particularly he wanted to know if there were any limitations on the number of massages that members could receive.

Eugenia Tzoannopoulos explained that she is the franchisee for "Massage Envy" in Darien. She said that people would become members and that entitles them to get a massage at approximately half the regular cost to the general public. In addition to massages, facials would be available. She said that there are 846 "Massage Envy" locations throughout the country and, in this particular location they propose 12 therapy rooms. She said that they stagger the hours of the appointments, so all the customers do not come at the same time. She said that the normal business operation hours are from 9:00 A.M. to 10:00 P.M. and the majority of the business takes place in the evening from 4:00 to 8:00 P.M. In response to questions about being fully booked, she said that the typical customer is at the site for approximately one hour, and if all the therapy rooms were in use, there would be 12 workers and 12 clients. She said that about 30% of the workers take public transportation to the site, thus there would be a parking need for 12 clients and 9 workers. She said that this is different from a day spa where people would spend many hours at the site. This is an in and out system.

Attorney Zabetakis said that the lease is for a 10 year time period.

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Mr. Ginsberg said that the two questions for the Commission are: Does this use require approval by the Planning & Zoning Commission? And, if so, does the Commission want to grant that approval?

Mr. Spain said that this is not a typical retail operation and the proposal's parking requirement would be more intense than normal retail. He said that the demand on parking in the area is very high in the evening due to the number of restaurants that operate in the area.

Attorney Zabetakis said that the parking demand is generated by the restaurants across the street and not on the north side of the Boston Post Road. She said that this is not a day spa operation where people spend many hours at the site. She said that the approval was granted in 2008 and it is not proper for the Planning & Zoning Commission to re-examine the parking conditions in 2013 because the approval was already granted.

Mr. Voigt said that the Traffic Report was submitted by the applicant, Mr. Orlando, at the time that the proposed re-development was pending. It indicates that 16 parking spaces would be needed for the retail uses of both buildings at the time of peak parking demand. The Commission in 2008 thus was told that normal retail levels of parking demand would be created by the retail uses on the site, and it relied on that.

Mr. Spain said that parking demand for retail uses varies, but the showing at the 2008 hearing was for a normal retail parking demand. The parking demand for "Massage Envy" is not the normal retail parking demand, it is much greater.

Attorney Zabetakis said that the approval granted by the Commission was relied upon by Mr. Kleban before he undertook construction of the front building. She said that the Commission cannot go back and re-write that approval. She said that the proposed use is consistent with the resolution that was adopted by the Commission.

Mr. Voigt said that parking is and has been a primary concern with the approval of this site. Attorney Zabetakis agreed, and said that the site is surrounded by on-street and off-street parking. She said that the personal service use in 1020 Boston Post Road was approved. Mr. Ginsberg said that, in that case, the development improved the public parking lot and thus the on-site parking requirement was waived.

Attorney Zabetakis said that any perspective tenant needs to evaluate whether there will be sufficient parking for them to be successful.

Mr. Ginsberg said that the approved use of the first floor of the building is retail because that was what was proposed. The proposed use by "Massage Envy" is a personal service business.

Mr. Conze said that the Commission needs to deliberate on this matter further. He suggested that the Commission table the matter and discuss it at the meeting next week. All the Commission members agreed. No action was taken with respect to this matter.

Chairman Conze read the following agenda item:

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Amendment of Special Permit Application #34-C/Site Plan, Woodway Country Club, 450 Hoyt Street.

Request to install a vertical sand silo in the parking lot of the maintenance compound.

Commission members discussed the proposal to install a sand silo that will be approximately 26 to 28 feet tall. The original proposal was to place it near the wetlands on the north end of the maintenance area. The plan has been revised to show a different location that will be farther to the south and will be better screened from Hoyt Street by the maintenance building. Since the Club is a special permit use, the staff cannot approve the proposed structure without Commission amendment of the Special Permit. Commission members discussed possible locations of the sand silo and wanted to make sure that it would be the dark green color and would be located behind the taller maintenance building. The following motion was made: That the Commission amend the Special Permit to allow the installation of the proposed sand silo provided that it is a dark green color and that it is located to the west of the taller maintenance building so that it will be better screened from Hoyt Street. The motion was made by Mr. Cunningham, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Special Permit #66-I, Darien YMCA, 2420 Boston Post Road.

Review and action on 2013 Special Events Schedule.

Mr. Ginsberg noted that the schedule is very similar to that which was held last year, but they now have added the gymnastics meets and have deleted the Pancake PowWow. The following motion was made: That the Commission approve the Special Events Schedule for the Darien YMCA for the year 2013. The motion was made by Mr. Voigt, seconded by Mr. Spain and unanimously approved.

The following motion was made: That the Commission waive the process of reading the draft Resolutions for the following agenda items because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Voigt and unanimously approved. Mr. Conze then read the following agenda item:

Deliberation and possible decision on the following:

Amendment of Protected Town Landmark #6, JHL Properties, LLC, 70 Old King's Highway North. Proposing to construct additions and alterations to the existing office building (the Joshua Morehouse Homestead), which was designated as a Protected Town Landmark in 1990.

PUBLIC HEARING CLOSED 12/11/2012. DECISION DEADLINE: 2/14/2013.

The Commission briefly discussed the draft Resolution and the following motion was made: That the Commission adopt the following Resolution to approve the amendment for the Protected Town Landmark subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Spain and unanimously approved.

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Application Number: Amendment of Protected Town Landmark #6
JHL Properties, LLC

Street Address: 70 Old King's Highway North
Assessor's Map #35 Lot #14

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

Name and Address of: JHL Properties, LLC
Property Owner: 70 Old King's Highway North
Darien, CT 06820

Activity Being Applied For: Proposing to construct additions and alterations to the existing office building (the Joshua Morehouse Homestead), which was designated as a Protected Town Landmark in 1990.

Property Location: The subject property is located on the north side of Old King's Highway North, approximately 250 feet east of its intersection with Brookside Road.

Zone: DB-2

Date of Public Hearing: November 27, 2012 continued to December 11, 2012

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

Publication of Hearing Notices

Dates: November 16 & 23, 2012

Newspaper: Darien News

Date of Action: January 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 18, 2013

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 620, 900, 1000, 1020, and 1051 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct additions and alterations to the existing office building (the Joshua Morehouse Homestead), which was designated as a Protected Town Landmark in 1990. The use would continue to be an office use.
2. The application is for amendments to the previously approved Protected Town Landmark status that had been originally granted in 1990. At that time, the building on the front of the property was converted from a residence into a business and professional office. The building was originally constructed in approximately 1731, and the Protected Town Landmark status allowed the property to be re-developed for commercial use in accordance with the use allowed by Zoning Regulations and while waiving or modifying the setback requirements for the building and parking in order to preserve the building and the site.
3. The new owner of the property wishes to make further revisions to the building to establish his office use, which involves accounting and management services for his own firm. There are very few visitors that would come to the site because the company does not offer services to the general public. There is a second building on the right rear portion of the property. It was originally a carriage house and has, for many years, been used as a separate residence. It will remain as a residence.
4. Changes to the front portion of the building include removal of several of the appendages on the north and east sides of the building. These portions of the building will be replaced with new two-story additions. One small section on the westerly portion of the building and one small section on the front (east part of the building) are too close to comply with the normal setback requirements for the zone. The Protected Town Landmark allows the Planning & Zoning Commission to approve these modifications in order to protect the existing character of the building and property.
5. At the Architectural Review Board (ARB) meeting of October 16, 2012, the ARB supported the proposed modifications. The ARB suggested several modifications with respect to the windows and fenestration and owner, Mr. Lewis, is fine with those modifications.
6. There are ten on-site parking spaces including two within the garage attached to the old carriage house. In accordance with the Regulations, 14 on-site parking space plus 2 for the residence would be required by the strict application of the Regulations. Again, this is something that the Commission can modify as part of the Protected Town Landmark approval. The proposed office use will involve six employees at the site on a routine basis and on very rare occasions they will have a visitor or two. The total amount of office space in the finished building will be 3,476 square feet.
7. Section 1051 of the Darien Zoning Regulations allows the Commission to approve the Protected Town Landmark use and tenant and to grant waivers of typical dimensional requirements. All of

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this is predicated on the findings by the Commission that the site is worthy of the Protected Town Landmark status. In this case, the Commission made such a finding in 1990 and now the Commission is being asked to make a similar finding with respect to the proposed modifications.

8. At the public hearing on December 11, 2012, Town Historian Marian Castell testified that the design for the additions and alterations are in keeping with the historic character of the building and property. She said that some of her old records indicate that the house might date back to 1725. She said that during the Depression of the 1930s, this property was apparently the residence of an artist by the name of Palentine, who was an artist employed by the Works Progress Administration (WPA) and painted the murals within what was the Darien High School, which is now the Darien Town Hall.
9. I spoke with Susan Lawrence last week after the hearing and she told me that the "windows with divided lights" that she wrote about in her letter from the ARB referred to the converted porch and *not* the current windows on the house which are 6 over 6. I brought this issue up at the hearing only because it was not clear to me either about her reference to "windows". Because I did remember discussing the converted porch treatment at the ARB I felt bound to say something. I learned after the hearing that was how the new owner remembered it as well, so we are on the same page, but I thought I would send this email along for the file and to save you from putting your time in the proper area.
10. 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.
11. 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.
12. 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.
13. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Amendment of Protected Town Landmark #6 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the following plans:
 - Zoning Location Survey 70 & 70-R Old King's Highway North prepared for JHL Properties of Connecticut, LLC, by William W. Seymour & Associates, scale 1"=20', dated October 17, 2012.

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- Alterations to Cedar Mountain Mgmt Offices, by Neil Hauck Architects, dated 10/17/12, Sheets EX-1, A-1, A-2, and A-3.
- B. There is less than 850 square feet of new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- C. 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.
- D. The granting of this Special Permit 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. Any desired signage requires review and action by the Architectural Review Board (ARB).
- E. 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 (January 8, 2014). 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, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Land Filling & Regrading Application #286, Bonnet Hill Farm, LLC, 68 Stephen Mather Road.
Proposing to construct additions and alterations to the existing residence; modify the driveway; modify the pool and pool terrace; and associated landscaping and grading alterations and drainage improvements; and perform related site development activities. *PUBLIC HEARING CLOSED 12/11/2012. DECISION DEADLINE: 2/14/2013.*

Commission members noted that the proposed cupola is not just functional from a standpoint of letting light in, but it is also a very functional and integrated aspect of the heating and cooling system for the house. The following motion was made: That the Commission adopt the following Resolution to approve the proposed regrading and the cupola installation in accordance with the stipulations and conditions as noted. The motion was made by Mr. Spain, seconded by Mr. DiDonna and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 8, 2013**

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to construct additions and alterations to the existing residence; modify the driveway; modify the pool and pool terrace; and associated landscaping and grading alterations and drainage improvements; and perform related site development activities. The subject property is served by an on-site septic system, and is 4.0+/- acres in size.
2. At the public hearing, it was confirmed that the trees to be removed as part of this project are shown on the submitted plan.
3. The Environmental Protection Commission (EPC) approved this project as part of EPC #26-2012 on August 1, 2012. That approval is hereby incorporated by reference.
4. At the public December 11, 2012 public hearing, Matthew Moger explained that the proposed cupola structure on top of the building does not comply with the four foot high and four foot wide limitations that allow the staff to approve the cupola administratively. He said that this design is for a cupola that is approximately nine feet, three inches wide times seven feet, nine inches times three feet, five inches tall. He said the purpose of this cupola is to allow for energy efficient ventilation of the proposed building. The peak of the cupola is approximately 33.5 above the average finished grade around the house, and due to the eave on the cupola, the calculated building height of the house is approximately 32.5 feet. The first and second floor designs have been specifically crafted to incorporate this natural and mechanically assisted ventilation. He asked that the Commission approve the cupola as being appropriate and not counted toward building height calculation.
5. Mr. Moger said that the other request is for modifications of the grading, moving 25 feet away from the house. Specifically, they will need to remove approximately a 30 inch high knoll on the far end of the courtyard of the front of the house. They will then construct a 30 inch tall retaining wall in that vicinity. This regrading will facilitate the safe establishment of the driveway court yard and the proper drainage of the area so that it does not impact any neighbors or the street.
6. The Commission acknowledges that the design of the cupola is not just for aesthetic purposes, but it also is functional. Section 371 of the Zoning Regulations allow cupolas not to be counted as part of the building height if they do not exceed 15 percent of the roof area and they are only as high as necessary to accomplish the purpose. The staff has consistently indicated that they will not approve cupolas that are more than four feet high and/or more than four feet wide unless the Planning & Zoning Commission and/or Zoning Board of Appeals has approved those cupolas as being necessary to accomplish the desired purposes. It was noted that in this case, the design is a functional one and the existing house and proposed cupola are so far from any property lines it would not appear to have any adverse impact on any neighbors, and the house is in approximately the center of a 4 +/- acre site.
7. 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

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existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.

8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #286 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

A. Land filling, excavation, and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:

- Residential Development prepared for Bonnet Hill Farm, LLC, by Rocco V. D'Andrea, Inc., last revised 10-15-2012, Sheet 1 of 3 Development Plan; Sheet 2 of 3 Siltation and Erosion Control Plan; Sheet 3 of 3 Notes and Details.

The Commission hereby approves the requested cupola as shown on the submitted plans entitled:

- "Bonnet hill Farm LLC, prepared by Moger Mehrhof Architects, last revised 9/7/2012 (Sheet A-2.0) and 10/18/2012 (all other sheets), Sheets A-1.3, A-2.0, A-2.1, A-4.0, A-4.1, A-4.2.

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 above-noted plans, 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. Due to the scope of the proposed work, the provision of a Performance Bond is hereby waived. Great care must be taken to make sure that storm water runoff is directed into the drainage system, not toward the neighbors to the southwest of the site.

E. By March 8, 2013 (within the next 60 days) 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 Planning & Zoning Department. The Drainage Maintenance Plan shall require the property

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owner and all subsequent property owners of 68 Stephen Mather Road 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 any filling or regrading work around the house.

- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Zoning Compliance or Certificate of Occupancy for the new house, the applicant shall submit an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with two foot contours, as well as the foundation location of the house.
- G. Prior to the request for the Certificate of Zoning Compliance or Certificate of Occupancy for the new house, the applicant shall submit verification from the project engineer that all aspects of the site regrading and storm drainage system installation have been completed in compliance with the approved plans.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. 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.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (January 8, 2014). This may be extended as per Sections 858 and 1009.

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, excavation or regrading work proposed as part of this application, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Special Permit Application #191-A, CST50, LLC, 9 Old King's Highway North. Proposing to establish an indoor recreation facility use in a portion of the space now occupied by Butler's Laundromat and Cleaners. *PUBLIC HEARING CLOSED 12/11/2012.*

Several minor modifications and clarifications were discussed and agreed upon. The following motion was made: that the Commission adopt the following Resolution to approve the project in accordance

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with the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Spain and unanimously approved.

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ADOPTED RESOLUTION
January 8, 2013**

Application Number: Special Permit Application #191-A
CST50, LLC

Street Address: 9 Old King's Highway North
Assessor's Map #71 Lot #18

Name & Address of:
Applicant & Proposed Tenant: CST50, LLC
275 Noroton Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative: Amy Zabetakis, Esq.
Rucci Law Group, LLC
19 Old King's Highway South
Darien, CT 06820

Name and Address of:
Property Owner: Colonial Land, Ltd.
90 Brookside Drive
Stamford, CT 06903

Activity Being Applied For: Proposing to establish an indoor recreation facility use in a portion of the space now occupied by Butler's Laundromat and Cleaners.

Property Location: The subject property is located on the southeast side of Old King's Highway North, approximately 250 feet southwest of its intersection with Sedgwick Avenue.

Zone: DC

Date of Public Hearing: December 11, 2012

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

Publication of Hearing Notices
Dates: November 30 & December 7, 2012 Newspaper: Darien News

Date of Action: January 8, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
January 18, 2013

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

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- the proposed use and activities must comply with all provisions of Sections 630, 905, 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 first floor 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 proposal to establish an indoor recreation facility use in a portion of the space now occupied by Butler's Laundromat and Cleaners. The tenant will take about ¼ of the existing building. No changes to the existing site plan are proposed.
2. CST50 is considered a Special Permit use under Section 634f of the Darien Zoning Regulations, which allows Indoor Recreation Facilities via Special Permit in the DC Zone. The proposed use is for an exercise facility with very specific operating characteristics and limited occupancy.
3. As put forth by the applicant at the public hearing, CST50 proposes to operate a Lagree Fitness studio with ten machines in the building. Thus, there will be a maximum of ten in a class, with up to two instructors. Classes are usually 50 minutes long, with ten minutes between classes. Classes may begin as early as 6:30 a.m. and run as late as 6:30 p.m. The applicant said that classes would be staggered by at least 10 minutes, in order to minimize parking and traffic impacts.
4. As noted at the public hearing, the subject property contains about 33 parking spaces to be shared amongst the three tenants. Section 905 of the Darien Zoning Regulations reads as follows:
905. Joint Parking
 - a. *Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:*
 - b. *The Commission finds that the proposed capacity shall meet the intent of the requirements;*
 - c. *Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;*

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d. Legal documentation shall be furnished establishing such rights for the duration of such joint use.

Such shared parking arrangements shall be limited to use and shall not include shared parking by time. No parking spaces shall be reserved for any specific building tenant.

5. The Commission finds that the proposed capacity of the on-site parking will meet the intent of the regulations, and that there is sufficient parking for the three uses as currently operating and as proposed: Butler's Laundromat, CST50, LLC, and Fisherman's Net.
6. 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.
7. 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.
8. 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.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #191-A is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the proposed indoor recreational facility use as described in the application materials and at the Public Hearing. Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans and use of the space must be consistent with representations made at the public hearing by the applicant, and this resolution.
- B. As proposed by the applicant at the public hearing and as outlined within the written submitted application materials, the Commission hereby requires the staggering of classes by at least 10 minutes as well as a limit on the number of clients per studio at any one time (10 maximum). As proposed by the applicant, a 10 student limit shall apply every day. These limits are imperative and hereby required by the Commission so as to minimize potential parking and traffic impacts on the other businesses within this building.
- C. Because of the nature of the business which is entirely indoors, and the unique location of this building within a commercial zone, the Commission places no limits on the maximum hours of operation, other than any limits put forth by the applicant in Finding #3, above.

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- D. There is no new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- E. Because the Commission is approving the project as Joint Parking under Section 905 of the Zoning Regulations, the property owner shall re-apply to the Planning and Zoning Commission for any change of tenants or change in the use or intensity of use within the building. This will allow the Commission to determine and address potential parking and other issues related to those tenants, and ensure that adequate parking is still being provided for the various uses within the 9 Old King's Highway North building.
- F. Because the Commission is approving this project under Section 905, shared parking arrangements shall be limited to use and does not include shared parking by time. No parking spaces shall be reserved for any specific building tenant. Thus, there shall be no on-site parking reserved for any tenant (excluding any handicap-accessible parking spaces required by the Building Code).
- G. Because of the nature of the existing and proposed 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.
- H. If needed, the applicant shall use the trash area and dumpsters located behind the building. If used by this tenant, the tenant shall work with others to keep it neat and orderly.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this Special Permit 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. Any desired signage requires review and action by the Architectural Review Board (ARB).
- K. 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 (January 8, 2014). 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, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit for the tenant fit-up, or this approval shall become null and void.

Chairman Conze read the following agenda item:

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Protected Town Landmark #8, Coastal Site Plan Review #279, Flood Damage Prevention Application #311, Land Filling & Regrading Application #285, Jim & Susan Ozanne, 94 Ring's End Road. Proposing to declare the proposed building to be a Protected Town Landmark, elevate the structure, rebuild the piers, retain the first floor deck, raze substantial portions of the residence and restore the building, and perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED 12/11/2012. DECISION DEADLINE: 2/14/2013.*

Commission members noted that this would be designation of the structure as a protected Town landmark and the structure would be substantially modified as it is lifted to comply with the Flood Damage Prevention Regulations. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Mr. DiDonna and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JANUARY 8, 2013**

Application Number: Protected Town Landmark #8, Coastal Site Plan Review #279,
Flood Damage Prevention Application #311,
Land Filling & Regrading Application #285

Street Address: 94 Ring's End Road
Assessor's Map #51 Lot #3

Name and Address of Property Owners: James & Susan Ozanne
114 Goodwives River Road
Darien, CT 06820

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

Activity Being Applied For: Proposing to declare the proposed building to be a Protected Town Landmark, elevate the structure, rebuild the piers, retain the first floor deck, raze substantial portions of the residence and restore the building, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the southwest side of Ring's End Road, approximately 550 feet south of its southern intersection with Harbor Road.

Zone: R-1

Date of Public Hearing: November 27, 2012 continued to December 11, 2012

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

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Publication of Hearing Notices

Dates: November 16 & 23, 2012

Newspaper: Darien News

Date of Action: January 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 18, 2013

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, 820, 850, 1000 and 1051 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 redevelopment plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The request is to declare the proposed building to be a Protected Town Landmark, elevate the structure, rebuild some of the piers that hold up the house, retain the first floor deck, raze substantial portions of the residence and restore the building, and perform related site development activities within regulated areas. The structure is now a single-family residential use and will remain a single-family residential use.
2. The subject property is .079+/- acres (3,443 square feet). A survey submitted as part of this application shows the location of the existing single-family residence on the property. The existing house is served by an on-site septic system. As part of this application, the renovated residence will be abandoning the existing septic system and connecting to the Town sanitary sewer system.
3. The Environmental Protection Commission (EPC) approved this project as part of EPC #31-2012 on October 3, 2012. That approval is hereby incorporated by reference.
4. An e-mail dated December 11, 2012 was received by the State of CT DEEP regarding this application. It read in part, "...We have 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...Elevating this residence would be a significant improvement over existing conditions. However, the final constructed home as proposed would be partly within OLSIP's jurisdiction."

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5. The existing residence has a first floor elevation of 8.9'. In order to comply with FEMA requirements, any substantial improvement would require that the first floor elevation be at or above elevation 11.0. The submitted survey shows the proposed new residence would have a first floor elevation of 12.0'.
6. It was explained at the December 11, 2012 public hearing that three of the existing piers underneath the building are no longer adequate to support the structure. Each of these piers is approximately 24 inches in diameter.
7. The plan is to literally lift up the building and then create a new crawl space under the building using a four inch layer of gravel and then a cement cap on top of that. Within the new foundation walls, flood vents will allow flood waters to flow into the crawl space and equalize pressure and then flood waters can flow out once the flood has receded. Support for the revised structure will be around the perimeter foundation and new center of piers. All of the work will comply with the Flood Damage Prevention Regulations and the FEMA requirements.
8. The plan is to lift the existing first floor deck, and to keep the historic front façade of Rings End Road, as well as a portion of the north side, and the existing porch that overhangs the water.
9. The plan does involve raising up the existing building and constructing a new foundation under it to provide proper support. The revised building will be up above the expected flood level and the new foundation will allow flood waters to pass through without damaging the structure. The existing building coverage is being reduced to 47.4% of the land area and small portions of the property need to be raised in order to accommodate the transition from existing ground level into the new house.
10. The subject property is currently owned by Jim and Susan Ozanne but had previously been owned by members of the Webb family since 1849. The old building was constructed in the 1700s, and was part of a wharf and shipping and commercial operation at the water's edge on Ring's End Road.
11. The Ozannes' plan is to substantially renovate and restore the character of the old building but the property is located within the Flood Hazard Zone and is located very close to all of the property lines. As described in the submitted application materials and at the December 11, 2012 public hearing, parts of the structure were built in the 1700s and it was used for a store until the 1920's or so. At that point it was converted to a residence. There are approximately 2,050 square feet of existing floor space. The existing first floor is at elevation 8.9. Because the house is in the Flood Hazard Zone, the plan was to pick up the building and raze it so the first floor would be at elevation 11. Due to recent storm activity and possible amendments to Flood Insurance Rate Maps, the current proposal is to raze up the floor to elevation 12 and to reduce the ceiling height on the second floor by 1 foot. This will mean that the new height of the ridge line of the roof will be no higher than what was originally proposed.
12. The property owner worked closely with Sara Nelson, AIA of Nelson Edwards Company Architects LLC. That report, dated October 11, 2012, was submitted for the record in this matter along with historical photographs of the property. A major part of her review included her desire to have the front porch relate to the historic porch that has been a part of this structure for

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over 200 years. Accordingly, she strongly urged the property owner to exaggerate the horizontality of the porch in order to have it relate architecturally to the grade plane. Since this house is being raised over two feet, and they are virtually at the property lines, the challenge was to avoid the need for handrails and guardrails, which would not be historically accurate. That was the impetus for full width steps, executed in a manner that would not require handrails or guardrails. The extra 12" of finished floor elevation has resulted in the need for a few additional steps compared to the original design.

13. At the public hearing, Mr. Ozanne reviewed photos of the building as it existed in the 1800s when it was used as a store. He noted that this property is very important to the history of Darien and the Ring's End Landing Area is featured on the Town Seal. He said that the Ring's End Landing area was very active during the Revolutionary War.
14. Town Historian Marian Castell said that the Webb family was very prominent in the history of Darien. At one point they owned 14 slips that operated out of Darien and Stamford. Mrs. Castell reviewed the previously submitted letter of October 17, 2012. She said that in making a Protected Town Landmark of this building, the Commission needs to recognize that not much of the original building will be left. She said that only the porch will be original material and many other parts of the structure are or will be replications. She said that in the 1970s, the Town tried to create a historic district around the Ring's End Landing area, but that effort was unsuccessful. Many of the buildings and properties in the Ring's End Landing area are now on the State Registrar of Historic Places.
15. One of the important historical aspects of the restoration is to maintain the whole width steps across the front of the building. The original design proposed three or four steps to go from ground level to the first floor but since they are raising the floor to elevation to 12 they will need two more steps.
16. John Martucci, the project engineer, has reviewed the details of the plan and concluded that there will be no impacts to grading or drainage on adjacent properties. The applicant has submitted a list of suggested stipulations and conditions that could accompany the approval of the property as a Protected Town Landmark.
17. The property owner proposes brick pavers in front of and alongside the new residence, similar to the brick pavers on the adjacent property at 90 Ring's End Road. This would replace asphalt, which is now in that location. The brick pavers are proposed to extend into the Ring's End Road right-of-way.
18. A one-page October 19, 2012 submittal was received from Marian Castell, Susan Lawrence, Rita Gadsden, and Judith Groppa, four members of the Architectural Review Board with backgrounds in historical preservation. They met with the property owners and reviewed the plans. In spite of the extent of the demolition, they agreed to support the listing of this property and structure as a "Protected Town Landmark".
19. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.

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20. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
21. 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 which would mitigate any adverse impacts by the proposed activity on coastal resources.
22. 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.
23. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
24. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
25. The application complies with all of the requirements of Sections 650 and 1051 of the Darien Zoning Regulations, except those for which variances have been granted, and except for those items specifically waived herein as part of the Protected Town Landmark status.

NOW THEREFORE BE IT RESOLVED that Protected Town Landmark #8, Coastal Site Plan Review #279, Flood Damage Prevention Application #311 and Land Filling and Regrading Application #285 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and other site modifications shall be in accordance with the plans entitled:
 - Zoning Location Survey of property prepared for Jim Ozanne, #94 Rings End Road, by Arcamone Land Surveyors, LLC, scale 1"=10', dated Sept. 4, 2012 and last revised 11/28/12 (which notes that the new first floor elevation will be 12.0').
 - Renovation of Existing Dwelling at 94 Rings End Road, by Bartels Pagliaro Architects, dated August 28, 2012, and last revised 11/27/12, Sheets A.1, A.2, A.3
- B. In order to establish this structure as a Protected Town Landmark, the Commission requires the property owner to do the following:
 - preserve the structural portion of the first floor deck over the crawl space;No change in the following:
 - exterior siding;
 - The front façade (front elevation) including the historical first floor windows, entry door and shutters in the two story portion of the structure;
 - Proposed building footprint, as shown on the survey, including changes to the porch and proposed steps;
 - Front setback of 0.5 feet from the porch and roof to the front lot line;
 - Side setback on the northwest property line of 0.2 feet from the eave and 0.9 feet from the building;

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- Side setback on the southeast property line of 15.0 feet to the eave and 15.7 feet to the building;
- Rear setback of 0.0 feet as shown;
- Building Coverage limited to 47.4% of the lot.

The Commission is also requiring that this remain a single-family residential use.

- C. 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 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.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. As noted by the applicant at the December 11, 2012 public hearing, the lot's building coverage is proposed to decrease from 50.5% to 47.4%. The subject property has frontage on the Darien River. Due to its specific location as well as the proposed decrease in building coverage, no stormwater detention is proposed, and the Commission hereby waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- F. Section 1051.3 of the Darien Zoning Regulations requires an identification plaque for a Protected Town Landmark. The applicant shall work with the Planning & Zoning Director on establishment of such an identification plaque.
- G. As noted in Section 1051.2e of the Zoning Regulations, any deviation from the conditions outlined herein shall constitute a nullification of the permission granted.
- H. Prior to the request for a Certificate of Occupancy (CO) the applicant must submit: photographs and documentation of the completed renovation and restoration work; a certification letter from the project architect that the renovation and restoration work has been completed in accordance with the plans approved by the Commission; and a final "as-built" survey is hereby required to certify that all of the site improvements, including but not limited to site grading and the building height, are all in compliance with the approved plans.
- I. 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, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- J. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent

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property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.

- K. 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: a Sewer Connection Permit from Sewer Services; a Zoning and Building Permit for construction of the proposed new replacement residence; a Street Opening Permit for the proposed driveway access; DPW and/or Board of Selectman approval for the creation of stairs/steps within the Ring's End Road right-of-way; and approval by the Darien Health Department for abandonment of the existing septic system. The applicant will need review and approval from the State of Connecticut DEEP for any work within their jurisdiction (below elevation 5.5), which is the coastal jurisdiction line.
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- M. This permit shall be subject to the provisions of Sections 815, 858, and 1009 of the Darien Zoning Regulations, including but not limited to implementation and completion of the approved plans within one year of this action (by January 8, 2014). This may be extended as per Sections 815, 858, and 1009.

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 shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning and Building Permit, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Discussion and deliberation only on any public hearing closed on January 8, 2013.

Mr. Ginsberg noted that there will be a brief meeting on January 15th and then the next meeting will be on January 29th. At that time, four applications for re-development of Noroton Bay properties damaged by storm Sandy will be discussed. Additional applications for work in that area will be processed during February and March.

Chairman Conze read the following agenda item:

Discussion of potential zoning regulation amendments and upcoming meeting schedule.

Mr. Ginsberg mentioned that in response to numerous discussions with property owners who had suffered damage during storm Sandy, there is some possibility that the Commission should consider amending the Regulations with respect to building height and flood hazard areas.

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Commission members noted that it is important to maintain the neighborhood feel and the curb appeal for houses, even though the first floor has to be lifted up considerably for some houses to comply with the Flood Damage Prevention Regulations. It might also be appropriate to allow houses that are being lifted to increase the amount of building coverage only as much as is necessary to accommodate the new steps from the ground level up to the first floor. Adopting these special provisions might reduce the load on the Zoning Board of Appeals in situations where existing houses are being lifted up. Commission members felt that the design of new houses should comply with all of the current Regulations in effect. There was some debate as to whether the Regulations for the Noroton Bay District should be changed or the Flood Damage Prevention Regulations should be modified to incorporate this change. Staff will look into the possibility of drafting amendments to accomplish those goals. Commission members are only considering the matter and did not indicate that they would definitely adopt such modifications.

Chairman Conze read the following agenda item:

Approval of Minutes

December 11, 2012 Public Hearing/General Meeting

Several typos and clarifications were discussed and agreed upon. The following motion was made: that the Commission adopt the Minutes as corrected. The motion was made by Mr. Spain, seconded by Mr. Cunningham and unanimously approved.

A motion was made to adjourn the meeting. The motion was made by Mr. Spain and seconded by Mr. Cunningham and unanimously approved. The meeting was adjourned at 10:27 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director