

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

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Spain, Cameron, Cunningham, DiDonna, Olvany, Voigt

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

Chairman Spain read the following agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Special Permit Application #279/Site Plan, Beth DuPont, 51 Tokeneke Road. Proposing to establish a convenience food service use in a portion of the first floor of the building formerly occupied by Pedal and Pump. The subject property is located on the south side of Tokeneke Road at the southwest corner formed by its intersection with Old King's Highway South, and is shown on Assessor's Map #72 as Lot #43, CBD Zone.

Mr. Ginsberg said that this application had been withdrawn.

Chairman Spain read the following agenda item:

Coastal Site Plan Review #291, Land Filling & Regrading Application #311, John & Charlotte Suhler, 200 Long Neck Point Road. Proposal to construct a new single-family residence, and perform related site development activities within a regulated area. The subject property is located on the west side of Long Neck Point Road approximately 1,400 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #18C in the R-1 Zone.

Doug VanderHorn, Project Architect, explained that this is a proposed new house on a vacant lot. The old house has been removed. Mr. VanderHorn explained that there is some slight regrading and filling to accommodate the new house but except for the rear terrace, all grades are within one foot of the existing ground level. The plans include a detailed drainage plan and a full landscaping plan.

Steve McAllister of McChord Engineering explained that it is a coastal property and stormwater design has been to manage the stormwater runoff for water quality purposes rather than trying to detain or delay the release of the water. He said that stormwater drains generally from the east, adjacent to Long Neck Point Road to the west, along Long Island Sound. Ms. Cameron asked why rain gardens have not been included instead of underground infiltrator structures. Mr. McAllister submitted a rain garden design plan to include rain gardens on the west side of the terrace and near the north property line. He said that the home owner prefers the installation of the underground infiltrators rather than the rain gardens.

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Mr. VanderHorn said that there is a 100 foot wide conservation area adjacent to Long Island Sound and it has been heavily replanted with vegetation. The Environmental Protection Commission staff Richard Jacobson is satisfied with the restoration work that has taken place. Ms. Cameron noted that the new planting has not filled in yet and needs time to grow. Mr. VanderHorn said that the rain gardens that getting installed are frequently not healthy due to a lack of sufficient and consistent water supply. He said that the rain garden design has been provided to the Commission if it requires that the rain gardens be installed. Otherwise, they will use that area for sediment basin during construction. If it is to be used a rain garden it will then be planted rather than filled in. He said that the site lacks top soil and needs that top soil to be added at the end of the construction process. Ms. Cameron said that the application calls for as much as 300 cubic yards of top soil.

Seth McLaughlin of Wilber & King Landscape Architects said that approximately 600 plants have been installed within the conservation easement area and that the amount of regrading to take place for the house construction will be very minor. Mr. Olvany asked about a large tree on the south side of the house that looks dead. Mr. McLaughlin said that they will closely examine that. Mr. DiDonna expressed concern about the plantings along the street. Mr. McLaughlin said that that would just be grass.

Mr. Ginsberg said that there were no comments from the Connecticut DEEP or other town departments. Ms. Cameron asked if a spa was being proposed and was told that it is included in the construction design.

There were no comments from the public regarding this application. Commission members said that the footing drain appears to overflow toward a neighbor. It would need to be redirected so that it would be into the rain garden area instead. A level spreader would be installed at the outlet approximately five feet from the south boundary but then it would flow toward Long Island Sound rather than a neighbor.

The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

At about 8:20 p.m., Chairman Spain then read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #272-A, Land Filling & Regrading Application #273-A, Eric Richards/Estate of Beatrice Richards et. al., 121-123 Five Mile River Road. Proposing to raze the existing residence and garage, implement the “free cut”, and construct two single-family residences and in-ground pools with associated filling/excavation and regrading work, and perform related site development activities within a regulated area. The subject property is located on the south and east side of Five Mile River Road approximately 700 feet south of its intersection with Davis Lane, and is shown on Assessor’s Map #67 as Lot #2, R-1/2 Zone. *HEARING OPENED ON 10/1/2013.*

Eric Richards, the project applicant, introduced Ms. Megan Raymond of William Kenny Associates. She submitted her CV (curriculum vitae) regarding experience and expertise in this type of matter. She also submitted a coastal resources report that was supplemental information to what had previously been submitted. She explained that the property is on the westerly side of the Five Mile River and that

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the River is a coastal resource. Then there is a coastal resource consisting of a narrow fringe of tidal wetlands and salt marsh. There is another narrow fringe of sea lavender and sea grass and the next coastal resource is the coastal flood hazard area, which extends up to elevation 13 or 15 feet. Moving west, she described the shore land as being of varying geologic character. There is a small amount of rocky shorefront but it is a very limited area. It is an interface between the shoreline and the shore land. She said that that interface now consists of a row of boulders that are in the water and a seawall, both of which are manmade features. There is also developed shorefront. Ms. Raymond said none of the work will take place in this area or in any area below elevation 8. She said that much of the site has shallow to bedrock soil type. She said that the rocky shore land is not a rocky shorefront.

Ms. Raymond explained that the proposal does not impact coastal resources and that blasting rock outcrops will not impact the seawall or rocky shorefront and therefore the project will not even have an indirect impact on coastal resources. She said that the construction of a residential home on a waterfront property is not an impairment of vistas, viewpoints or scenic outlooks. The development would not be an obstruction or blocking of the view. The view will be changed but it will not be blocked.

Mr. Cunningham said that the distance from the proposed pool decking on the north lot to the seawall and the coastal resources is a concern. Mr. Rob Frangione, Project Engineer, said that there would be about 15 feet from the face of the wall to the pool on the north lot and about 26 feet from the face of the wall to the pool deck on the south lot. He said that fill is needed in that area to accommodate the proposed pools. The pools will be at elevation 16. On the northerly lot, the new stairway will be 11 to 12 feet from the seawall. People would be able to walk across the pool deck into a stair on the south of the site and then out to the existing pier. Ms. Raymond said that the work is close to the water but not impacting the coastal resources. She said that the only rocky shorefront is the interface area between the water line and the upland shore land. She said that the rocky area to be worked on/in is not rocky shorefront. They will be changing some of the shore land to accommodate the development.

Commission members asked if there is a depiction of the site with natural conditions without the existing buildings or if there is a depiction of what the site would be like once it is excavated and the foundation areas are blasted before the actual buildings are constructed. It was noted that no such drawing exists. Ms. Raymond said she will try to come up with something. Ms. Raymond also said that the Town Historian had mentioned a bluff on the property. Ms. Raymond said that a bluff is a naturally eroding sea cliff and there are no bluffs or escarpments on this site. She referred to Connecticut General Statutes Section 22a-93-7a.

Mr. Frangione said that the building coverage on the north lot would be approximately 17.4% of the land area and on the south lot would be 19.5% of the land area. Both of these are under 20% which is the maximum allowable by Regulations. He said that the driveways, walkways, terraces and patios are not counted in this calculation per the Darien Zoning Regulations. He said that the grade near each of the proposed houses will need to be lowered to accommodate the proposed development. On the north lot, portions of the house site are at existing grade 30. They will need to be lowered to accommodate the first floor at 22. The basement of the north lot would be at approximately elevation 12; therefore, the grade will be lowered from elevation 30 down to 12. Approximately 5,000 cubic yards of material need to be removed from the site to accommodate the proposed development. Based on the size of typical trucks hauling material out of the site, it will take approximately 700 truckloads of material to be removed from the property. Mr. Frangione said that the Environmental Protection Commission has

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required a performance bond for the proper installation and maintenance of sediment and erosion controls during the site work process. He described the cross section drawings that he had included in the application materials. He said that construction access would be through the existing driveway and not from the private portion of Five Mile River Road. Mr. DiDonna noted that the existing driveway is very narrow and he questioned how the construction traffic can safely and adequately use that area.

Mr. Frangione reviewed the drawing labeled Sheet C1 that included colored lines. He said that 100 foot regulated area under Coastal Area Management jurisdiction is shown, the building setbacks for principal structures are shown, and the flood zone areas are highlighted. He said that the houses will be outside the flood zone. The pools will be in the flood hazard zone but he said that this is common practice in Darien. He said that no construction or development activity will take place within the VE (wave velocity) flood hazard zone.

Mr. Spain said that Marian Castell had appeared as the Town Historian, not as a paid consultant to the Commission. He said that the Town is pursuing the hiring of a coastal expert to review the information from the applicant and from others.

Mr. Ginsberg read aloud the comments from the Southwestern Regional Planning Agency as noted in their September 9, 2013 correspondence. They indicate that the proposed development is not likely to have any inter-municipal impacts.

Attorney Wilder Gleason represented several of the neighbors and spoke in opposition to the application. He said that this is a proposal to build two houses on one lot and therefore does not comply with the Darien Zoning Regulations. He submitted a copy of the tax assessor's records that indicate that entire site is one single piece of property. He said that no map has been recorded to create two lots and that there are numerous legal challenges to any map that purports to divide the property into two building lots. He said those issues will take a long time to resolve in court. He said that the map purportedly to divide the property into two building lots and the letter from the Director of Planning concerning that map had not been entered into the record by the applicant and therefore they are not part of the current application. He said that the Director of Planning, Jeremy Ginsberg, had conditionally approved the map subject to certain work taking place on the site that is entirely within control of the applicant. He said that the map would not be in compliance with the Regulations and thus the application to place two principal buildings on a single lot does not comply with Section 331 in the Darien Zoning Regulations. He said that Section 1000e of the Zoning Regulations requires that an applicant submit all prior approvals to the Commission in order to make the application complete.

Attorney Gleason said the applicant is wasting the Commission's time because the Commission cannot approve the application until the map is filed and all of the related issues are resolved. He noted that there are several recent letters from Mr. Sullivan and from Mr. Gleason raising these issues. Mr. Gleason said that Five Mile River Road is actually two roads, a public portion and a private portion. He said that the subject property has approximately 77 linear feet of frontage of the public portion of the road. He said that the private portion of Five Mile River Road is a 12 foot wide easement that is maintained by the neighbors. That private easement does not border any portion of the applicant's (Richards') property. The people that use the private portion of Five Mile River Road have an expressed right to use that is contained within their deeds. The exact ownership of the private right of way is still being researched but their research does indicate that the right of way does not abut the Richards' property.

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Attorney Gleason reviewed the history of ownership of the lands in the area. In 1901 the property was owned by Francis Blamey. By 1906, Blamey had deeded away the area to the south of the site. None of the deeds of that point mention a right of way to the west of the site because no such right of way existed at that time. The deeds in the 1930s do mention a right of way from properties south of the Richards' property to the public street. He said that there is a June 13, 1967 letter from John Hayes, Planning Administrator, that describes the frontage for lots on the private portion of Five Mile River Road as being on the private right of way and that the private portion is not a street as defined by the Regulations. Because the Richards' property does not have access to or frontage on the private right of way, the proposed southerly lot cannot use the private portion of Five Mile River Road. Attorney Gleason said it would not be possible to create a rear lot in this zone because rear lots are not permitted in the R-1/2 Zone. The only way to create two lots would be to divide the property on a north/south basis but then there would not be sufficient street frontage to comply with the Regulations. He said that the Richards' family has never contributed to the maintenance of the private portion of Five Mile River Road.

Attorney Gleason said that there is a physical barrier (wall) that separates the Richards' property from the private portion of Five Mile River Road. He said that if there are two separate streets, then the proposed northerly parcel is a corner lot and then the setbacks are increased and the proposed house locations do not comply with the Zoning Regulations. Attorney Gleason said that the Free Cut map cannot be filed in the Darien Land Records until the existing house and structures have been removed. When that map is filed it will be appealed. He said that his clients also object to the proposed development based on the merits of the development in addition to the technical requirements of the Regulations. He said that at one point the Town condemned a sewer easement through the area and he will provide more detail regarding that in the future. He said that the two lots depicted on the applicant's map do not exist. It is only one piece of property and only one house is allowed. He said that no access from the Richards' property is allowed on the private road.

Attorney Gleason said that this is an insufficient application. He said that the application map is old and outdated and that the tidal boundary might have been modified by Storm Sandy and therefore the lot area could have been reduced. He said that until now the applicant has not shown a current flood map. He said that the building coverage has been calculated by the engineer but not by a surveyor. He said that a licensed land surveyor needs to update the table of specific information on the survey map. He said that there are only limited architectural elevation drawings from the River view and other parts of the proposed houses are ghosted in. The Commission needs all of the floor plans and all of the other elevation drawings to review the application in its entirety. He said that these things are required by the Regulations. Mr. Gleason said that the building height needs to be calculated by a land surveyor, not by the project engineer. He also said that all large trees are not shown on the plan but they should be. He said that the grove of trees is in the public view yet they are not shown on the plans. He said not all the rock outcrop areas are shown on the plans. He said that these natural features are part of the public vista of the area. He said that the surveyor should carefully update the plan to show all of these natural features. The Commission should also ask the surveyor to make a distinction between the limits of the lawn area that are existing, and the lawn areas which are proposed.

Attorney Gleason said that Section 1023d requires all of this information to be provided by the applicant to the Commission so that the Commission and neighbors will have an opportunity to review it prior to the public hearing. He said that the planting plan is very generic and not very specific as

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required by the Regulations. By his count, there are 31 trees called out on the plan and 27 of these will be removed. He noted that there are many more trees that are on the site that are not shown on the Site Plan. He submitted a list of deficiencies and required information that had not been submitted. He understands that the meeting will be continued on October 29, 2013 and said that this additional information should be submitted prior to that so everyone can review it in preparation for the meeting. There was a second letter that was submitted (from Steven Danzer). Mr. Gleason said that he will provide the information to Planning & Zoning and to the applicant.

At about 10:00 p.m., the Planning & Zoning Commission decided to continue the public hearing on this matter. The following motion was made: That the Planning & Zoning Commission continue the public hearing at 8 P.M. on Tuesday, October 29, 2013 in Room 206 of Darien Town Hall. The motion was made by Mr. Olvany, seconded by Ms. Cameron and unanimously approved.

Chairman Spain opened the general meeting and read the following agenda item:

GENERAL MEETING

Mandatory Referral #4-2013, Board of Selectmen, 4 Short Lane.

Proposed purchase of 4 Short Lane, which is adjacent to Weed Beach.

Mr. DiDonna said that this seems to be the highest land in the immediate area but it is still in the flood zone. Mr. Ginsberg said that if the Town does acquire the property they would be combining parcels and therefore changing the setbacks that would be applicable from boundary lines. This creates greater flexibility in the uses and location of structures on the property.

Mr. Spain said that the proposed acquisition is consistent with the Town Plan of Conservation and Development. Mr. Olvany said that acquisition of this property has been mentioned since at least 1995. Commission members felt that it would be appropriate to vote on the Mandatory Referral tonight and have the staff draw a formal report to be included in the response to the Board of Selectmen. The following motion was made: That the Planning & Zoning Commission approve the Mandatory Referral regarding the acquisition of the property at 4 Short Lane because it is in compliance with the Town Plan of Conservation and Development. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved. The report reads as follows:

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
BOARD OF SELECTMEN
ACQUISITION OF PROPERTY AT 4 SHORT LANE
OCTOBER 8, 2013**

Mandatory Referral #4-2013, Board of Selectmen, 4 Short Lane.

Proposed purchase of 4 Short Lane, which is adjacent to Weed Beach.

The request from the Board of Selectmen is to purchase 0.57+/- acres of property on Short Lane, which is shown on Assessor's Map #56, as Lot #5-6, bounded by the Sewer Disposal Plant to the north, and Weed Beach to the east, south and west.

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A memorandum from Karl Kilduff was received on October 8, 2013 outlining the proposed request to acquire property. Planning & Zoning Department staff provided supplemental information to the Commission, including a portion of the Assessor's Map of the property, the Assessor's card, deed, a September 25, 2013 memo from Director of Parks and Recreation Susan Swiatek, and pages from the Darien Parks, Recreation, and Open Space Plan.

At this time, exact plans for use of this acre property are not known, however, it could give the Town additional flexibility on the property. Depending on the proposed use envisioned for the property, review and action may be needed from the Planning and Zoning Commission.

Pages 8-2, 8-3 and 9-5 of the 2006 Town Plan of Conservation and Development (the "Town Plan") all address this issue. The Town Plan recommends that the Town acquire property contiguous to Town-owned properties if they become available.

On the basis of all of the foregoing, the Town's proposal to acquire this land is consistent with the 2006 Town Plan of Conservation and Development and town policies.

Chairman Spain read the following agenda item:

Mandatory Referral #5-2013, Board of Selectmen, 32 Hoyt Street.

Proposed purchase of 32 Hoyt Street, which is adjacent to Holmes School.

This property is adjacent to the Holmes School and is in fact surrounded by land that is owned by the Town as part of the Holmes School facility. Ms. Cameron said the Town should buy this property. Mr. Olvany said that the school is overflowing with students now and that the proposed acquisition would be consistent with the Town Plan of Conservation and Development. The following motion was made: That the Planning & Zoning Commission approve the Mandatory Referral regarding acquisition of the property at 32 Hoyt Street because it is in compliance with the Town Plan of Conservation and Development. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved. The report reads as follows:

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
BOARD OF SELECTMEN
ACQUISITION OF PROPERTY AT 32 HOYT STREET
OCTOBER 8, 2013**

Mandatory Referral #5-2013, Board of Selectmen, 32 Hoyt Street.

Proposed purchase of 32 Hoyt Street, which is adjacent to Holmes School.

The subject 32 Hoyt Street property is 0.23+/- acres, which is shown on Assessor's Map #25, Lot #146, surrounded by, and accessed through the Holmes School property.

An October 8, 2013 memorandum was received from Administrative Officer Karl Kilduff outlining the proposed request to acquire this property. Planning & Zoning Department staff provided supplemental information to the Commission including a portion of the Assessor's Map, the deed

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for the property, a 1946 survey, and pages from the 2006 Town Plan of Conservation and Development (the “Town Plan”).

At this time, exact plans for use of this property are not known, however it is highly likely that the property would be incorporated into the existing Holmes School property.

Pages 7-2 and 8-3 of the 2006 Town Plan of Conservation and Development (the “Town Plan”) address this potential acquisition. Page 7-2 notes that a policy is to “ensure that space needs and the need for community services are adequately met for the planning period.” Page 8-3 of the Town Plan recommends that the Town “consider purchasing properties contiguous to Town-owned properties if they become available.”

On the basis of all of the foregoing, the Town’s proposal to acquire parcel at 32 Hoyt Street is consistent with the 2006 Town Plan of Conservation and Development and town policies.

Chairman Spain read the following agenda item:

Modification to Coastal Site Plan Review #170-C, Flood Damage Prevention Application #291-A, Land Filling & Regrading Application #77-C, Morgan, 4 Salem Straits.

Request to enlarge previously approved patio by six feet.

The proposed widening of the walkway and patio by approximately six feet of impervious surface is shown on the submitted plans. It was noted that a rain garden will be constructed on the site but the water will not flow in this direction. Matthew Biron of Hoffman Landscapes said that they would be adding approximately 100 square feet of bluestone or gravel base and plantings will be around the patio to absorb stormwater runoff before it is discharged into Long Island Sound.

The following motion was made: That the Planning & Zoning Commission approve the requested modification in accordance with the submitted materials. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved.

Chairman Spain read the following agenda item:

Deliberations and possible decisions on the following:

Business Site Plan #31-E, TTJ Realty, LLC, Palmer’s Market, 264 Heights Road. Proposal to construct a one-story addition to the northwest corner of Palmer’s Market, and perform related site development activities.

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 Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

After brief discussion, the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the application subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Ms. Cameron. All voted in favor except

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Mr. Cunningham and Mr. Voigt who had been absent during previous discussion on this matter. The motion passed by a vote of 4-0-2. The Adopted Resolution reads as follows:

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

Application Number: Business Site Plan #31-E

Business Name & Street Address: Palmer's Supermarket
264 Heights Road

Tax Assessor's Map #75 Lots #27 (with shared parking on adjacent lots)

Name and Address of Property Owners: TTJ Realty, LLC
And Applicant: 264 Heights Road
Darien, CT 06820

Name and Address of Applicant's Representative: Jeffrey McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposal to construct a one-story addition to the northwest corner of Palmer's Market, and perform related site development activities.

Property Location: The subject property is located on the north side of Heights Road approximately 200 feet west from the corner formed by its intersection with Edgerton Street.

Zone: Designed Commercial (DC) and Noroton Heights Redevelopment Overlay Zones

Date of Public Hearing: September 24, 2013

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

Publication of Hearing Notices
Dates: September 13 & 20, 2013 Newspaper: Darien News

Date of Action: October 8, 2013 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: October 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 630 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use is 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 review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to construct a one-story 514 square foot addition to the northwest corner of Palmer's Market, and perform related site development activities. The addition will provide product storage space and food preparation space but will not provide any additional customer accessible area. The subject property is served by public water and public sewer. The retail use is as-of-right in the DC Zone pursuant to Section 632a of the Darien Zoning Regulations. The proposed expansion of the building and modification of the site development to provide the proposed support area for the retail store does require Business Site Plan approval by the Commission.
2. Based on information presented by the applicant at the public hearing, the Commission finds that reasonable and appropriate off-street parking has been provided per Section 905 of the Zoning Regulations. The subject property is subject to a shared parking with other adjacent lots. The Commission acknowledges that the subject addition is unlikely to increase traffic or increase parking demand on-site. The submitted Compilation Plan shows the location of Noroton Heights Shopping Center parking to the east, south, and west of the building.
3. As noted within the applicant's presentation at the public hearing, the proposed lift has been removed from the proposed plans.
4. At their September 17, 2013 meeting, the Architectural Review Board approved the plans for the requested addition as part of ARB #27-2013.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #31-E is hereby approved subject to the foregoing and following stipulations and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission. These include:
 - Zoning Location Survey prepared for TTJ Realty, LLC, 264 Heights Road, by William W. Seymour & Associates, dated August 2, 2013.
 - Proposed Addition to Palmer's Market, 264 Heights Road, by Achilles Architects, dated 8-10-13, Sheet No. A-1 through A-3. (The Commission acknowledges that the interior floor plans may be modified to accommodate the needs of the applicant and the Darien Health Department).
- B. The subject addition is proposed over an existing paved surface, and therefore, will not increase the amount of impervious surface on the subject property. The Commission therefore waives

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the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.

- C. 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, the Darien Health Department and the Darien Fire Marshal.
- D. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (by October 8, 2014). This may be extended as per Section 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.

Chairman Spain read the following agenda item:

Coastal Site Plan Review #223-A Patrick & Janienne Hackett, 112 Pear Tree Point Road.
Proposal to construct a new detached garage, relocate the existing generator, install stormwater management, and perform related site development activities within a regulated area.

Commission members discussed the draft resolution and made several modifications and clarifications to correct typographical errors. 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. DiDonna, seconded by Ms. Cameron and approved by a vote of 5-0-1 (Mr. Voigt abstained because he has not been present for the previous discussion regarding the matter). The Adopted Resolution reads as follows:

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

Application Number: Coastal Site Plan Review #223-A

Street Address: 112 Pear Tree Point Road
Assessor's Map #60 Lot #24

Name and Address of Applicant & Property Owner: Patrick & Janienne Hackett
112 Pear Tree Point Road
Darien, CT 06820

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

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Activity Being Applied For: Proposal to construct a new detached garage, relocate the existing generator, install stormwater management, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Pear Tree Point Road at the northeast corner formed by its intersection with Crane Road.

Zone: R-1

Date of Public Hearing: September 10, 2013

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

Publication of Hearing Notices

Dates: August 30 & September 6, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 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 and 810 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application is to construct a new 26' x 30' detached garage, relocate the existing generator, install stormwater management, and perform related site development activities within a regulated area. The garage is proposed to be located on the easterly portion of the site, at least 300 feet from Mean High Water. The subject property is 1.867 acres, and is located in the R-1 Zone.
2. Storm runoff from the proposed detached garage will be connected into the existing storm drainage system that includes underground Cultec units. The amount of on-site paved area will not change, and the on-site grades will remain unchanged.

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3. 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 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.
5. The proposed activities' potential adverse impacts on coastal resources, as modified within this resolution, are acceptable.
6. The proposed activities, as modified within this resolution, are consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #223-A is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The installation of the garage and associated related work shall be in accordance with the following plans submitted to and reviewed by the Commission, entitled:
 - Property Survey prepared for Patrick & Janienne Hackett, 112 Pear Tree Point Road, scale 1"=20', by Charles C. Farnsworth, LLS, dated July 16, 2013 and last revised July 18, 2013.
 - Proposed Drainage Plan, Hackett Residence, 112 Pear Tree Point Road, by DiVesta Civil Engineering Associates, Inc., dated 07/03/13, and last revised 07/26/2013, Sheet 1 of 1.
- B. Because of the location of the property across the street from to Long Island Sound, and the fact that there is less than 800 square feet of impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- D. During the implementation of this project, the applicant shall utilize the sediment and erosion control measures as shown on the submitted plans 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. By December 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

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Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 112 Pear Tree Point 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 work.

- F. Upon completion of the work, and no later than October 8, 2014, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans.
- 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 the permit as it deems appropriate.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- I. This permit shall be subject to the provisions of Section 815 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 8, 2014). This may be extended as per Section 815.

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 Notice of Drainage Maintenance Plan 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 for the detached garage, or this approval shall become null and void.

Chairman Spain read the following agenda item:

Land Filling & Regrading Application #313, Eric Roemer, 49 Birch Road. Proposing to remove the existing paved driveway, install a circular driveway and surface the driveway with permeable paver stones, and perform related site development activities.

Commission discussed the draft resolution and the following motion was made: That the Planning & Zoning Commission approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved. The Adopted Resolution reads as follows:

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

Application Number: Land Filling & Regrading Application #313

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Street Address: 49 Birch Road
Assessor's Map #11 Lot #11

Name and Address of Applicant &: Eric Roemer
Property Owner: 49 Birch Road
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

Activity Being Applied For: Proposing to remove the existing paved driveway, install a circular driveway and surface the driveway with permeable paver stones, and perform related site development activities.

Property Location: The subject property is located on the west side of Birch Road approximately 450 feet north of its intersection with Point O'Woods Road.

Zone: R-1

Date of Public Hearing: October 1, 2013

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

Publication of Hearing Notices
Dates: September 20 & 27, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 18, 2013

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.
- 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.

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

1. The subject application is to remove the existing paved driveway, install a circular driveway and surface the driveway with permeable paver stones, and perform related site development activities. The goal is to have a circular driveway, with two curb cuts onto Birch Road.
2. A report was received from the Environmental Protection Commission (EPC) dated September 24, 2013. That memo expressed no concerns regarding the proposed driveway modifications.
3. During the public hearing, the Planning and Zoning Commission noted that the proposed driveway was designed to be placed between the 36" oak and the 24" beech near the front property line. The Commission believes that the driveway in its proposed location would jeopardize the 36" oak, and it may be more appropriate to locate the proposed driveway further to the south by 10-20 feet. While this will necessitate the certain removal of the beech tree, it will better preserve the oak tree.
4. 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.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #313 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plans as required to be modified herein:
 - Roemer Residence 49 Birch Road, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., last revised 08/16/13, Sheet 1 of 2.
 - Roemer Residence 49 Birch Road, Details, by DiVesta Civil Engineering Associates, Inc., last revised 08/16/13, Sheet 2 of 2.
- B. As noted above, the Commission hereby requires that the proposed southern curb cut shall be relocated 10-20 feet further to the south. This will necessitate the removal of an existing 24" Beech tree. However, the Commission believes that by moving the proposed driveway will increase the likelihood of preserving the existing 36" oak tree on the subject property. Revised plans shall be prepared for the record in this matter, and be submitted to the Public Works Department for the required Street Opening Permit.

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- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- D. 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.
- E. As part of this application, a Stormwater Management Operation and Maintenance Plan was submitted for the record. The Drainage Maintenance Plan requires the property owner and all subsequent property owners of 49 Birch 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.
- 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, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading have been completed in compliance with the approved plans and the agreement referred to in Condition A, above.
- 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 the permit as it deems appropriate.
- H. 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. This includes, but is not limited to, a Street Opening Permit from the Darien Public Works Department.
- I. By October 8, 2014, the applicant shall complete the project and submit written verification from the design engineer that the grading and drainage have been properly implemented and are functioning as designed and intended.
- 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 (October 8, 2014). This may be extended as per Section 858.

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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.

Chairman Spain read the following agenda item:

Special Permit Application #188-E/Site Plan, Darien Athletic Foundation, Darien High School, 80 High School Lane. Proposing to construct a pavilion building (including concession stand, ticket booth, and bathrooms) at the south end of the Stadium Field at Darien High School, and perform related site development activities.

The draft resolution was discussed, and several modifications and clarifications were agreed upon. Commission members noted that a Mandatory Referral is not needed in this case because this is consistent with the activities going on at the school facility and it is not a major improvement or modification. The following motion was made: That the Planning & Zoning Commission approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Ms. Cameron. All voted in favor except Mr. Cunningham and Mr. Voigt who abstained because they had not been present for the public hearing. The motion was approved by a vote of 4-0-2. The Adopted Resolution reads as follows:

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

Application Number: Special Permit Application #188-E/Site Plan

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 and #81

Name and Address of Applicant: Darien Athletic Foundation
17 Old King's Highway South
Darien, CT 06820

Name and Address of Property Owner: Darien Board of Education
35 Leroy Avenue
Darien, CT 06820

Name and Address of Applicant's Representatives: D. Bruce Hill, Esq. Peter Graham
Law Offices of Bruce Hill Darien Athletic Foundation
23 Old King's Highway S. 17 Old King's Highway South
Darien, CT 06820 Darien, CT 06820

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Activity Being Applied For: Proposing to construct a pavilion building (including concession stand, ticket booth, and bathrooms) at the south end of the Stadium Field at Darien High School, and perform related site development activities.

Property Location: The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road.

Zone: R-2 Zone

Date of Public Hearing: September 24, 2013

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

Publication of Hearing Notices

Dates: September 13 & 20, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 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, 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 application is to construct a pavilion building (including concession stand, ticket booth, and restrooms) at the south end of the Stadium Field at Darien High School, and perform related site development activities. The subject property is served by public water and sewer. The subject pavilion building requires a Special Permit under Section 404d of the Darien Zoning Regulations.
2. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The activities at the High School property will be the same. The building will provide additional conveniences during certain hours, but will not influence on-site parking or traffic. The Darien Police sent a written comment regarding this

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application, stating: “No additional impact on traffic or LTA issues found in this application.”

3. On September 17, 2013, the Architectural Review Board (ARB) reviewed and approved this application as part of ARB #25-2013. The building shall be constructed in brick to match that of the High School. The curved “Founders Wall” shall be constructed in a blue glazed brick. This brick shall be used sparingly as an accent on the pavilion itself. The standing seam metal roof shall match the roof of the High School.
4. The building will be given to the Board of Education to operate and become their responsibility to maintain.
5. One issue that was discussed during the September 24 public hearing was whether the building would be able to be used during Town fireworks annual event held in June or July. It appears that the building will be too close to where fireworks are ignited to allow the use of the building during the event. While the applicant acknowledged that this is not ideal, the fact that this is the most appropriate location for the structure in terms of its relation to the parking lot and existing stadium field outweighed the use of the building on that one day a year. In addition, an existing drainage pipe restricts the building’s proposed location.
6. 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.
7. 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.
8. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
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 proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
12. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #188-E/Site Plan are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the pavilion shall be in accordance with the plans entitled:
 - Darien Athletic Foundation: DHS Stadium Pavilion, Site Plan, by Neil Hauck Architects, dated 9/17/13, Sheet SP-1.
 - Darien Athletic Foundation: DHS Stadium Pavilion, Plans and Elevations, by Neil Hauck Architects, dated 8/15/13, Sheet A-1.
- B. The Commission strongly recommends to the applicant and/or the Board of Education that they continue to work closely with the Firefighters Foundation and/or the Darien Fire Marshal. By making on-site adjustments, it might be possible to have this new building available for use by the general public during Town fireworks event. While the Commission acknowledges that use of the building during Town fireworks would be optimal, it believes that the building in this location will still be a benefit to the community the remainder of the year, and thus, believes that the fireworks issue should not override or dictate the pavilion's location on the subject property. If the building is moved slightly, that modification can be reviewed and acted upon by Planning & Zoning Commission staff.
- C. The Commission strongly recommends that it be kept abreast of various improvements to the site, to determine whether a Mandatory Referral report under CGS 8-24 may be needed.
- D. Due to the pavilion's location on the subject property, and the fact that it is a 1,000+/- square foot building within the Stony Brook watershed, the Commission hereby waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- E. The granting of this Special 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.
- 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 these permits as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 1009 and 1025 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 8, 2014). This approval may be extended as per Sections 1009 and 1025.

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 plan by the Chairman. A Special Permit form shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit for this pavilion.

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Chairman Spain read the following agenda item:

Special Permit Application #188-B(2)/Site Plan, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams for five years.

Commission members noted that the previous approvals had been for one year of use but this approval is for five years. The draft resolution was discussed and minor clarifications were agreed upon. The following motion was made: That the Planning & Zoning Commission approve the installation of the temporary practice lights at the high school subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna and seconded by Mr. Olvany. All members voted in favor except Mr. Cunningham who abstained because he was not at the public hearing. The motion passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

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

Application Number: Special Permit Application #188-B(2)/Site Plan
Darien Board of Education, Darien High School, 80 High School Lane

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of:
Property Owner: Darien Board of Education/Town of Darien
35 Leroy Avenue/2 Renshaw Road
Darien, CT 06820

Name and Address of
Applicant: Darien Board of Education
35 Leroy Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative: Dr. Stephen V. Falcone
Darien Public Schools
35 Leroy Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams from Fall 2013-Fall 2017.

Property Location: The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road.

Zone: R-2

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Date of Public Hearing: September 17, 2013

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

Publication of Hearing Notices

Dates: September 6 & 13, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 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, 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 application materials, 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 application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams during Fall 2013-Fall 2017. At the public hearing, it was noted that they are requesting a five-year approval.
2. The Commission notes that there is a related application for temporary lights for exclusive use by the Darien Junior Football League (DJFL) at this property (Special Permit Application #188-D(2)/Site Plan). Both the subject application and that application were heard simultaneously on September 17, 2013. That DJFL application has been decided separately. Also, an application was put forth by DJFL to allow temporary lights to be up to thirty feet high at Holahan Field, and that also has been decided separately.
3. The purpose of the temporary portable lights is to have practices on the Stadium Field for a number of high school sports teams. As noted within the submitted "Guidelines for 2012 Use of Temporary Plug-in Portable Light Poles", the Director of Athletics will make the determination on the field assignments, and which teams are able to practice on this field during the approved weekday times herein.
4. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-

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family houses; and with the Stadium Field, in particular, located directly adjacent to a portion of that neighborhood. The Commission's application of its own Regulations to this request for a Special Permit requires that these location and proximity factors be considered fully in applying each element of those regulations.

5. During recent Fall Sports seasons at Darien High School, use of six 20 or 30 foot high portable, temporary lights was carried out at the High School's Stadium Field after approval from the Planning & Zoning Commission. This allowed the football team and other High School sports team's weekday practice sessions under the lights for a maximum number of hours. It also allowed DJFL practices afterwards. The Darien Board of Education conducted a study and survey concerning the practice sessions and the use of the portable lights, and about the impact of these activities on the residential neighborhoods surrounding the High School. During the public hearing on the subject application, the use of the lights and the prior reports submitted by the Board of Education on lights were discussed, and input from the general public was considered.

6. According to the submitted project description/narrative, the placement and use of lights are requested to be as follows for 2013-2017:
HOURS:

The lights can come on when daylight conditions require their use.

The lights must be turned off no later than 6 p.m.

DAYS:

Commencing on the first Monday in November;

Concluding at the end of the high school football season, which usually ends later than the field hockey season.

--If the high school football team does NOT make the State tournament, then the last day of light use would be on the Wednesday before Thanksgiving.

--If the high school football team DOES make the State tournament, then the lights are proposed to be used through the first week of December.

7. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were adequate for it to gain a sufficient understanding of the proposed activity. The Commission is looking for the Board of Education and its representatives to manage this temporary lights program to ensure full compliance with Subsection 405b.
8. The subject application is solely for portable, temporary lights to be used during the described fall sports seasons during 2013-2017. The usage of the lights was specifically defined by the applicant within the application materials and at the public hearing. Any request for lighting beyond 2017 requires a subsequent Special Permit application to this Commission.

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9. The information gathered during this period could be helpful in any future analysis of light use proposals for the subject property. The Commission notes that if the approval period proposed had been a longer span of weeks each year, there could have been other stipulations required by the Commission to ensure that the lights and activities would not have an unreasonable impact on the neighborhood.
10. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon practices on the Stadium field now occur, and will continue to occur. Only practice sessions for high school sports teams are proposed to occur under the subject lights, and only on weekday afternoons, always ending at or before 6 pm. No other use of the lighted Stadium Field is being requested as part of this application.
11. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. Actions have been taken since prior lights applications for this property to reduce impacts of temporary, portable lights on neighbors. This includes, but is not limited to: a) the use of "hard-wire" rather than lights being run on diesel generators; b) exterior window treatments placed on the cafeteria windows to help reduce reflection from the lights; and c) the planting of over sixty trees along the northern perimeter of the property.
12. The Commission believes that an approval using lights for a longer number of weeks per season beyond those approved herein and the related Special Permit Application #188-D(2)/Site Plan for DJFL could have unreasonable impacts on the neighbors and upon neighboring properties. It is incumbent upon the DJFL and the Board of Education to continue to work toward improvements which will minimize any potential impacts from the lights and the lighted activities upon neighbors and neighboring properties.
13. The 2006 Town Plan of Conservation and Development provides for the preservation of the residential character of Darien.
 - The Plan also notes Darien is fully developed, and the Commission acknowledges the resultant scarcity of public resources and potential strain on adjoining land uses. This strain is particularly evident in the neighborhoods surrounding all of Darien's public schools and the need for athletic fields and open space to accommodate both public and private use.
 - The Commission acknowledges the need to closely monitor the use of these field resources to ensure minimal encroachment on neighboring residential development.
 - Any incremental use and physical enhancement to the existing fields and facilities, especially using exterior lighting at night, is subordinate to maintaining the character and quiet enjoyment of these preexisting neighborhoods.
14. Given the short and limited duration of the proposed use annually, 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.
15. 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

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activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

16. The limited nature of the proposed temporary lighting (less than 30 days) is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
17. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
18. The design, location, and specific details of the proposed use 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.
19. 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 Special Permit Application #188-B(2)/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the portable, temporary lights shall be in accordance with the following:
 - “Guidelines for 2012 Use of Temporary Plug-in Portable Light Poles”.
- B. The Commission notes that the applicant has proposed that the temporary, portable lights will be plugged into existing electrical outlets, and not run off of generators. This is an integral part of this approval. The fact that the scoreboard and amplified public address system will not be used during these practice times is also an integral part of this approval.
- C. The Commission notes that a line of evergreen trees was planted a few years ago along the north side of the property. They contribute to the screening of the lights, and those trees continue to grow. An integral part of this approval is for the Board of Education to keep those trees healthy on a continuing basis.
- D. Installation of the portable, temporary lights shall be in general accordance with the placement of the lights during the fall of 2012—six lights placed on the eastern side of the field, spaced generally evenly apart. They may be up to thirty feet high, as allowed in the Zoning Regulation amendment which took effect on August 5, 2012. Slight positioning adjustments are encouraged to be made in the field to minimize impacts, but should be substantially similar to the placement made last year. The Board of Education hereby has the ability to work with the Planning and Zoning Director to move, slightly relocate, tilt, shield and/or angle the lights to find the area of least impact. However, no more than six lights can be used. They can be at the maximum height, but they also may be lower. The Commission strongly encourages this type of “field adjusting” to arrive at the best plan. All such testing (moving, angling, tilting, etc.) shall occur during the first two to three weeks of the approved use period, and may occur no

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later than 7:30 p.m. Once the “best” location has been selected, a detailed plan shall be given to the Planning and Zoning Director no later than November 18, 2013, of the temporary lights, the direction and elevation in which they are aimed, and any shielding of the light filament or source element.

E. This Special Permit shall cover a period of five annual Fall Sports practice season at the Stadium Field, through the end of 2017. During the weeks when portable temporary practice lights are in use, they shall be turned on as early in the afternoon as the High School officials determine that daylight conditions require their use, but no earlier than 3:00 p.m., and they shall be turned off no later than 6:00 p.m. It is acknowledged that as part of the related DJFL application, DJFL may be practicing directly after DHS student athletes leave the field. In those cases, the lights do not need to be turned off, but may remain on for the DJFL practice.

F. Based upon the potential needs of some High School sports teams for late afternoon practice sessions, a Special Permit for the use of six portable light stands, as described during the hearing, is granted to the applicant for use only at the Stadium Field. The lights may be used by one or more high school sports teams as follows:

HOURS:

- The lights can come on when daylight conditions require their use—but no earlier than 3 p.m.
- The lights must be turned off no later than 6 p.m., except on days when DJFL practice sessions take place after High School teams are done for the day.

DAYS:

- Commencing no earlier than the first Monday in November;
- Concluding at the end of the high school football season.
 - If the high school football team DOES NOT make the State tournament, then the last day of light use would be no later than on the Wednesday before Thanksgiving.
 - If the high school football team DOES make the State tournament, then the lights are proposed to be used through no later than the first week of December.

G. The lights herein are proposed for a very limited duration. Any longer duration would trigger increased scrutiny by the Commission per the Darien Zoning Regulations. Similarly, this request/approval is not for games--only practice, and not for use on weekends. Any game or weekend usage would also trigger increased scrutiny by the Commission.

H. Because it is possible that the high school teams are eliminated from the playoffs prior to the end dates allowed herein, there is a chance that the lights may be in use only by DJFL on certain weekdays. Conversely, if DJFL teams get eliminated earlier in the season, it is possible that the lights may be in use only by one or more high school teams on certain weekdays. It is also possible that the lights may not be used on certain weekdays at all within the total approved period due to practice schedules. Whether or not all of the permitted times and dates are used, no dates or hours of lighted practice sessions are authorized beyond those set out in this decision.

I. Three contact phone numbers shall be submitted to the Planning and Zoning Office before October 18, 2013 and prior to the seasonal installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately

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thereafter, and should be for the Superintendent of Schools, a representative from the Board of Education, and the schools' Athletic Director. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. It will also allow Planning and Zoning Department staff to contact someone regarding any proposed questions or concerns, or to arrange a site visit during the lights operations. Any phone calls received from neighbors by the Superintendent of Schools, a representative from the Board of Education, and the schools' Athletic Director regarding the lights during the fall lights use period shall be logged, and included in the subsequent "post-operations" report required by the Commission herein.

- J. As noted herein, no use for games is permitted--practices only. As teams are eliminated from the playoffs, and fewer children are practicing, the Board of Education is encouraged to continue to use fewer lights, as less field space may be needed for practice as the end of the approved use period approaches.
- K. Within 60 days after annual fall light use allowed under this decision (such final date expected to be near the end of November annually), the Board of Education shall prepare a written report outlining the following:
1. the dates and times when the lights were used;
 2. which teams used the lights, and on which dates and times;
 2. any complaints regarding the noise, light, or other potential impacts to the neighbors; and
 3. what changes could be made to minimize potential impacts for temporary lights to be used in the future.
- In order for the Planning & Zoning Commission to get a better understanding of how this has worked, a copy of the first annual said report shall be submitted to the Planning & Zoning Office before January 31, 2014 and the same each ensuing year, so that the Commission can discuss said report at a meeting in February 2014. This basic report shall include the dates and hours the lights were used, what teams used the field, as well as any complaints or comments received. This report will also allow the Board Of Education to consider what they would do or could do differently, and to better understand what impacts the lights use may have had.
- L. The granting of this Special 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. The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.
- 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 these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records prior to the installation of the temporary lights.

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Chairman Spain read the following agenda item:

Special Permit Application #188-D(2)/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL for at least five years.

The draft resolution was discussed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project of temporary use of lights for practices for five year time period subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and all voted in favor except Mr. Cunningham who abstained because he was not at the public hearing. The motion was passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

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

Application Number: Special Permit Application #188-D(2)/Site Plan
Darien Junior Football League (DJFL)
Darien High School, 80 High School Lane

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of:	Town of Darien	Darien Board of Education
Property Owner:	2 Renshaw Road Darien, CT 06820	35 Leroy Avenue Darien, CT 06820

Name and Address of Applicant & Applicant's Representative	Darien Junior Football League (DJFL) c/o Jim Coley 48 Old Farm Road Darien, CT 06820
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Activity Being Applied For: Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL for at least five years.

Property Location: The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road.

Zone: R-2

Date of Public Hearing: September 17, 2013

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

Publication of Hearing Notices

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Dates: September 6 & 13, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 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, 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 application materials, 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 application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL for at least five years. The Commission notes that similar applications for temporary light use were submitted by DJFL over the past few years, and approved by the Planning and Zoning Commission.
2. The Commission notes that in recent years, related applications were granted for 20 foot high portable temporary lights at the Darien High School Stadium Field, and last year, received approval for 30 foot lights. The DJFL also received approval for temporary portable lights for Holahan field in recent years.
3. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up through middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. Prior to 2008, it has functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission and the Board of Education without the installation or use of artificial lights.
4. The application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal use by Darien Junior Football League (DJFL) for team practices on a maximum of 30 hours per year in the fall from 2013-2017. DJFL received specific authorization from the Darien Board of Education to proceed with this application for this specific field. The purpose of the temporary portable lights is to have football practices on the high school Stadium

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Field during the early evening. The proposed temporary lights would allow lighted practices after sunset on some weeknights in the later part of autumn.

5. The Commission notes that there is a related application for temporary lights for exclusive use by the Darien Board of Education at this property (Special Permit Application #188-B(2)/Site Plan). Both the subject application and that application were heard simultaneously on September 17, 2013. That Board of Education application has been decided separately. Also, an application was put forth by DJFL to allow temporary lights to be up to thirty feet high at Holahan Field, and that also has been decided separately.
6. The purpose of the temporary portable lights is to have practices on the Stadium Field for DJFL practices. As noted by the applicant, the DJFL will determine which of their teams are able to practice on this field during the approved weekday times herein.
7. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring Special Permit. At the time this application was submitted, that subsection read as follows:
405b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
 1. *The source of such lights shall be concealed from surrounding residential properties;*
 2. *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 3. *No permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.*
 4. *Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:*
 - a) *Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;*
 - b) *Located on public (i.e. Town-owned) property; and*
 - c) *Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.*
8. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-family houses; and with the Stadium Field, in particular, located directly upon a portion of that neighborhood. The Commission's application of its own Regulations to this request for a Special Permit requires that these location and proximity factors be considered fully in applying each element of those regulations.
9. During recent years, use of six 20 foot high portable, temporary lights was carried out at the High School's Stadium Field after approval from the Planning & Zoning Commission, and more recently, in 2012, 30 foot temporary lights were installed. This allowed the football team and other High School varsity sports team's weekday practice sessions under the lights for a maximum number of hours. It also allowed DJFL practices afterwards. The DJFL conducted a study and survey concerning the practice sessions and the use of the portable lights, and about the impact of these activities on the residential neighborhoods surrounding

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the High School. During the public hearing on the subject application, the use of the lights and the prior reports submitted by the Board of Education and DJFL on lights were discussed, and input from the general public was considered.

10. According to page 3 of the submitted project description/narrative submitted by the applicant, the placement and use of lights are requested to be as follows for 2013-2017:
HOURS:
DJFL teams will use the field immediately after the DHS student athletes vacate the field. However, the lights are not to be used by the DJFL earlier than 5:30 p.m. or later than 7:00 p.m. when the DHS athletes are not present.
Maximum of 30 hours of weekday practices per calendar year.
DAYS:
Commencing no earlier than the second Monday in October (or the third Monday if October 1st falls on a Monday).
Concluding when the date the last DJFL team is eliminated from the playoffs or; the Friday before the championship games, which typically occurs on the third weekend in November (this is the weekend before the Thanksgiving holiday).
11. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon practices on the Stadium field now occur, and will continue to occur. Only practice sessions for DJFL teams are proposed to occur under the subject lights, and only on weekday afternoons, always ending at or before 7:00 p.m. (except for any testing specifically allowed herein) No other use of the lighted Stadium Field is being requested as part of this application. No lighted competitive games are proposed.
12. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. Actions have been taken since prior lights applications for this property to reduce impacts of temporary, portable lights on neighbors. This includes, but is not limited to: a) the use of "hard-wire" electric power rather than lights being run on diesel generators; b) exterior window treatments placed on the cafeteria windows to help reduce reflection from the lights; and c) the planting of over sixty evergreen trees along the northern perimeter of the property.
13. At the public hearing, the representatives from the DJFL noted that the proposal is to allow DJFL practices at the stadium field on weekdays only. It was noted that the dates proposed are the maximum usage, not necessarily the actual usage. The usage would decrease as DJFL teams get eliminated from the playoffs. It was also noted that practices are not usually held on Mondays, which also decreases the number of days the lights are likely to be on for DJFL teams. The applicant notes on page 3 of their submitted narrative that 30 hours is the maximum usage proposed, but not necessarily the actual usage.
14. The applicant has requested to have the lights on from 5:30 pm (or immediately following the practice of any DHS team using the field, whichever is earlier) to 7:00 pm. It is important to note that the Darien High School teams who use temporary practice lights at the stadium field are generally finished with their use of the lights by 5:30 p.m., sometimes earlier. The DJFL application seeks use of the lights after the DHS teams are finished for

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the day. Thus, the request from DJFL is for approximately 1 ½ hours on a maximum of 15 days—a maximum of approximately 22 hours of use at this location. All of this is in addition to any possible use of lights for practices at Holahan Field, which is the subject of a separate but related Special Permit (Special Permit #125-D/Site Plan).

15. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were adequate for it to gain a sufficient understanding of the proposed activity. The Commission is looking for both representatives of the DJFL and representatives from the Darien Board of Education to manage this temporary lights program to ensure full compliance with Section 405b of the Darien Zoning Regulations.
16. The subject application is solely for six portable, lights to be used for practices only (not games) on a temporary basis, only during certain hours from fall 2013 to fall 2017. The usage of the lights was specifically defined by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 2017 requires a subsequent Special Permit application to this Commission.
17. The information gathered during this maximum 30-hour period nonetheless could be helpful in any future analysis of light use proposals for the subject property. The Commission notes that if the period proposed had been for a longer span of weeks, there could have been other stipulations required by the Commission to ensure that the lights and activities would not have an impact on the neighborhood. During the hearing for this application, neighbors appeared and presented photographs taken from various neighborhood locations which showed the light from prior temporary practice lights at the DHS stadium field.
18. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. The Commission believes that a longer-term approval for lights beyond those contained in this approval and the related Special Permit Application #188-B(2)/Site Plan for the Board of Education could have unacceptable impacts on the neighbors and upon neighboring properties. It is incumbent upon the DJFL and the Board of Education to continue to work toward improvements which will minimize any potential impacts from the lights and the lighted activities on neighbors and neighboring properties.
19. The 2006 Town Plan of Conservation and Development provides for the preservation of the residential character of Darien.
20. The Plan also notes Darien is fully developed, and the Commission acknowledges the resultant scarcity of public resources and potential strain on adjoining land uses. This strain is particularly evident in the neighborhoods surrounding all of Darien's public schools and Town-owned properties and the need for athletic fields and open space to accommodate both public and private use.
21. The Commission acknowledges the need to closely monitor the use of these field resources to ensure minimal encroachment on neighboring residential development.

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22. Any incremental use and physical enhancement to the existing fields and facilities is subordinate to maintaining the character and quiet enjoyment of these preexisting neighborhoods. The Commission has traditionally maintained the preservation of residential character with regard to any increased use of adjacent properties.
23. An important aspect of this determination is the fact that this will be a use for a limited time, such that any impact upon property values and normal residential levels of nighttime quiet residential use will not be unreasonable given such a short time period of operation, a maximum of 30 hours annually by this applicant, and additional hours by the Board of Education, with the lights being off at 7:00 p.m., except for certain testing allowed herein.
24. Given the short and limited duration of the proposed use, 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.
25. 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.
26. The limited nature of the proposed lighting is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
27. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
28. The design, location, and specific details of the proposed use 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.
29. 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 Special Permit Application #188-D(2)/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation and use of the portable, temporary lights shall be in accordance with the plan shown on page 6 of the applicant's submitted materials (Attachment #1—Map of six lighting units approximate location.)
This plan shows the proposed location of six (6) proposed portable temporary light units. The actual location and height of the lights are as modified herein.
- B. The Commission notes that the applicant has proposed that the temporary, portable lights will be plugged into existing electrical outlets, and not run off of generators. This is an integral part of

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this approval. The Commission is requiring that the scoreboard and amplified public address system not be used during these practice times.

- C. Installation of the portable, temporary lights shall be in general accordance with the placement of the lights during the fall of 2012—six lights placed on the eastern side of the field, spaced generally evenly apart. They may be up to thirty feet (30') high, as allowed in the Zoning Regulation amendment which took effect on August 5, 2012. Slight positioning adjustments are encouraged to be made in the field to minimize impacts, but should be substantially similar to the placement made last year. The DJFL hereby has the ability to work with the Planning and Zoning Director to move, slightly relocate, tilt, shield and/or angle the lights to find the area of least impact. However, no more than six lights can be used. They can be at the maximum height, but they also may be lower. The Commission strongly encourages this type of “field adjusting” to arrive at the best plan which complies with Zoning Regulation subsection 405b(4)(c). All such testing (moving, angling, tilting, etc.) shall occur during the first two-three weeks of the approved use period, and may occur no later than 7:30 p.m. Once the “best” location has been selected, a detailed plan shall be given to the Planning and Zoning Director no later than November 18, 2013, indicating the location of the temporary lights, the direction and elevation in which they are aimed, and any shielding of the light filament or source element.
- D. This Special Permit shall cover a period of 2013-2017 practice seasons at the Stadium Field. During the weeks when portable temporary practice lights are in use, they shall be used by DJFL no later than 7 p.m. It is acknowledged that as part of the related Board of Education application, DJFL may be practicing directly after DHS student athletes leave the field. In those cases, the lights do not need to be turned off, but may remain on for the DJFL practice.
- E. Based upon the potential needs of some DJFL teams’ early evening practice sessions a Special Permit for use of six portable light stands, as described during the public hearing, shall be granted to the applicant for use at the Stadium Field. The 2013 dates approved herein shall be per the submitted application materials. The lights may be used by one or more DJFL teams as follows:
HOURS:
 - As noted by the applicant in the submitted application materials, the lights are not to be used by the DJFL earlier than 5:30 p.m. or later than 7:30 p.m., except as authorized for testing as noted herein when the DHS athletes are not present.
 - Maximum of 30 hours of weekday practices per calendar year.DAYS:
 - Commencing no earlier than the second Monday in October (or the third Monday if October 1st falls on a Monday).
 - Concluding when the date the last team is eliminated from the playoffs or; on the Friday before the championship games, which typically occurs on the third weekend in November (this is the weekend before the Thanksgiving holiday).
- F. The lights herein are proposed for a very limited duration. Any longer duration would trigger increased scrutiny by the Commission per the Darien Zoning Regulations. Similarly, this request/approval is not for games--only practice, and not for use on weekends. Any game or weekend usage would also trigger increased scrutiny by the Commission.

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- G. Because it is possible that the high school teams are eliminated from the playoffs prior to the end dates allowed herein, there is a chance that the lights may be in use only by DJFL on certain weekdays. Conversely, if DJFL teams get eliminated earlier in the season, it is possible that the lights may be in use only by one or more high school teams on certain weekdays. It is also possible that the lights may not be used on certain weekdays at all within the total approved period due to practice schedules. Whether or not all of the permitted times and dates are used, no dates or hours of lighted practice sessions are authorized beyond those set out in this decision.
- H. Three contact phone numbers shall be submitted to the Planning and Zoning Office before October 15, 2013 and prior to the seasonal installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter, and should be for a representative of the DJFL. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. It will also allow Planning and Zoning Department staff to contact someone regarding any proposed questions or concerns, or to arrange a site visit during the lights operations. Any phone calls received from neighbors by the DJFL representative regarding the lights during the fall lights use period shall be logged, and included in the subsequent "post-operations" report required by the Commission herein.
- I. As noted herein, no use for games is permitted--practices only. As teams are eliminated from the playoffs, and fewer children are practicing, the DJFL is encouraged to continue to use fewer lights, as less field space may be needed for practice as the end of the approved use period approaches.
- J. Within 60 days after annual fall light use allowed under this decision (such final date expected to be near the end of November annually), the DJFL shall prepare a written report outlining the following:
1. the dates and times when the lights were used;
 2. how many teams used the lights, and on which dates and times;
 3. any complaints regarding the noise, light, or other potential impacts to the neighbors; and
 4. what changes could be made to minimize potential impacts for temporary lights to be used in the future.
- In order for the Planning & Zoning Commission to get a better understanding of how this has worked, a copy of the first annual said report shall be submitted to the Planning & Zoning Office before January 31, 2014 and the same each ensuing year, so that the Commission can discuss said report at a meeting in February 2014. This basic report shall include the dates and hours the lights were used, what teams used the field, as well as any complaints or comments received. These reports will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights use may have had.
- K. The granting of this Special 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. The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.

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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 these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights or use of the lights by DJFL.

Chairman Spain read the following agenda item:

Special Permit Application #125-D(3), Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays in the fall for at least five years.

Commission members discussed and agreed upon minor changes and clarifications to the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the five year use of temporary lights for practices at Holahan Field subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and approved by all except Mr. Cunningham who abstained because he was not at the public hearing. The motion was passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

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

Application Number: Special Permit Application #125-D(3)/Site Plan
Darien Junior Football League (DJFL), Holahan Field

Street Address: 2 Renshaw Road
Assessor's Map #41 Lot #85

Name and Address of:
and Property Owner: Town of Darien
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative Darien Junior Football League (DJFL)
c/o Jim Coley
48 Old Farm Road
Darien, CT 06820

Activity Being Applied For: Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays in the fall for at least five years.

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Property Location: The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, at Holahan Field which is behind Town Hall.

Zone: R-1/3

Date of Public Hearing: September 17, 2013

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

Publication of Hearing Notices

Dates: September 6 & 13, 2013

Newspaper: Darien News

Date of Action: October 8, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 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, 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 materials, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application is to install three temporary lights at Holahan Field for DJFL team practices on weekdays in the fall for at least five years.
2. At the September 17, 2013 public hearing, Mr. Jim Coley President of DJFL, confirmed that the proposed application is unchanged from what the Commission approved last year. At Holahan Field, they propose to install three portable, temporary lighting units which will be powered by diesel. In 2012, they used the field 13 of the 28 days approved by the Planning & Zoning Commission. At the end of the project, they received no neighbor complaints or comments. They are asking for a 5 year approval for this same operation.
3. At the public hearing, Commission members asked about possible further improvements to minimize visual and/or noise impacts on neighbors. The applicant was encouraged to continue to make efforts to remove the diesel powering which would thus reduce the noise.

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4. On September 27, 2011, the Commission granted the DJFL approval for portable temporary light use at Holahan field in the fall of 2011 and the fall of 2012. Fall 2011 was implemented with 20-foot lights. On August 5, 2012, the Darien Zoning Regulations were amended by the Commission to allow temporary, portable lights to be a maximum of 30 feet high, and 30 foot lights were used in 2012. This application proposes such lights of up to 30 feet high, as now allowed by the Regulations.
5. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring a Special Permit. That Section, as recently amended by the Commission, reads as follows:
 - b. *Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*
 - (1) *The source of such lights shall be concealed from surrounding residential properties;*
 - (2) *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 - (3) *No permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.*
 - (4) *Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:*
 - a) *Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;*
 - b) *Located on public (i.e. Town-owned) property; and*
 - c) *Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.*
6. At the public hearing, a representative from the DJFL noted that the proposal is to install three temporary diesel-powered generator light stands to allow DJFL practices at Holahan field. This includes use from 5:30 p.m. to 7:00 p.m., as noted in the application materials submitted by DJFL.
7. The applicant noted, and the Commission agrees, that this is a very limited proposal for a duration of a maximum of five years. The details presented to the Commission were satisfactory for this period. The Commission is looking for the DJFL to manage this temporary lights program. Use of this field is authorized by the Parks and Recreation Commission.
8. The subject application is solely for portable, lights to be used on a temporary basis and for practices only, not games. The usage of the lights was specifically defined and limited by the applicant within the application materials and at the public hearing. No change in usage is proposed as part of this application. Any request for lighting beyond November 30, 2017 requires a subsequent Special Permit application to this Commission.

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9. The information gathered could be helpful in any future analysis of light proposals for the subject property. The Commission notes that there can be other stipulations required by the Commission to ensure that the lights do not have a detrimental impact on the neighborhood. The Commission notes that some of the expressed concerns were due to the proposed use of diesel generators for the lights. If there is a future request, the Commission could be expected to encourage identifying and, if practicable, implementing ways to power the lights without the use of diesel generators, and powering them via a silent source, such as utility power.
10. It was clear from the applicant's presentation that no different or more intense activity or use is being proposed as part of this application. The existing afternoon and early evening football practices on Holahan field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No other use of the lighted field is being requested.
11. The subject property is in an R-1/3 (residential) zone. This request includes tight control of ambient and direct light to minimize the impact on the neighbors' residential properties.
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. An important aspect of this determination is the fact that this will be for a limited time, such that any impact upon property values and upon normal levels of quiet nighttime residential use will not be unreasonable given such a short time period of operation.
13. 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 residential areas, and the suitability of such actions to the area for which it is proposed.
14. The nature of the proposed lighting is such that this trial project will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
15. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
16. The design, location, and specific details of the proposed use 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. The activity is not expected to add to the traffic volumes in and out of the Town Hall parking areas beyond what DJFL practices currently entail.
17. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations, particularly because it seeks a short term trial period activity.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #125-D(3)/Site Plan are hereby granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Installation of the portable, temporary lights up to 30 feet in height shall be in accordance with Amendment of Special Permit #125-D(2), last year's application, which allowed three 30 foot portable, temporary lights in the same location. The permit granted herein will be in effect from the fall of 2013 through the fall of 2017—a total of five years.
- B. Light placement shall be in accordance with the submitted sketch entitled, "Approximate Location of the Three Light Towers at Holahan Field-2011-2012". Slight positioning adjustments may be made in the field to minimize impacts, but should be substantially similar to the placements shown on that sketch. In addition to careful positioning of the light stands to eliminate glare on neighbors' residences, applicants shall use their best efforts to install sound baffles or shields to absorb, reduce, and deflect the sound of the generators and the diesel engines from neighboring residences, and/or provide direct power to the lights.
- C. The lights (at a maximum of 30 feet high) shall only be turned on for DJFL practices during the time frames specified herein:
Weekdays from the second Monday in October (or the third Monday if October 1st falls on a Monday)—to:
The date the last team is eliminated from the playoffs, or:
The Friday before the championship game in mid-late November;
- D. As noted in the submitted application materials, the lights shall not be used on weekends or for games.
- E. Only DJFL personnel shall be allowed to turn on the lights and turn them off. They shall be locked when not in operation.
- F. As teams are eliminated from the playoffs, and fewer children are practicing, DJFL is encouraged to continue to move the lights further away from the neighbors, and use fewer lights, as less field space may be needed for practice as the end of the 30-day use period approaches.
- G. Similar to prior years, the DJFL shall notify DJFL parents that turning on their vehicle headlights during practice or after practice beyond normal driving needs is not permitted. It is recommended that this notice be done via e-mail and also with a sign at the Holahan Field site.
- H. No players or coaches shall be picked up or dropped off on St. John's Place or on Cherry Street. Drop offs and pick ups shall take place in the Town Hall parking lot. It is recommended that DJFL notify parents of this via e-mail and with a sign at the Holahan field.

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- I. On Mondays through Thursdays, the 30 foot high portable lights may stay on the field at their normal operating locations. On Friday nights, or on Saturday mornings, and if required by the Park and Recreation Director, the lights shall be rolled back by the cemetery (near the 8-man sled) so that the fields may be used by other teams over the weekend.
- J. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 18, 2013 and prior to the installation of the portable lights. This should be a phone number for someone who can be contacted while the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operation" report required by the Commission herein. Also included should be a full report about adjustments of the lights to 30 feet and how they were moved, shielded, tilted, etc. to perform better for the teams, and to have a lessened impact and spillage on the surrounding residences. Drawings, plans, and diagrams should be included where helpful.
- K. Annually, within 60 days after the final light use allowed under this decision, DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what improvements could be made to minimize potential impacts (if any) if similar temporary lights are used in the future. In order for the Planning & Zoning Commission to get a better understanding of how the lights have worked, a copy of the first such annual report shall be submitted to the Planning & Zoning Office before January 31, 2014, so that the Commission can discuss said report at a meeting in February 2014. These annual basic reports shall include the dates and hours the lights were used, as well as any complaints or comments received. A lights expert does not need to be hired to report. These reports will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights may have had.
- L. The granting of this Special 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.
- 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 these permits as it deems appropriate.

All provisions and details of this decision shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights.

Chairman Spain read the following agenda item:

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Coastal Site Plan Review #287, Flood Damage Prevention Application #328, Land Filling & Regrading Application #306, Stephen Milman, 5 Pratt Island. Proposal to install a retaining wall with associated fill, and perform related site activities within regulated areas.

Commission members discussed the draft resolution and agreed upon several minor corrections and clarifications. 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. DiDonna, seconded by Ms. Cameron and approved by all except Mr. Cunningham who abstained. The motion was passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

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

Application Number: Coastal Site Plan Review #287
Flood Damage Prevention Application #328
Land Filling & Regrading Application #306

Street Address: 5 Pratt Island
Assessor's Map #55 Lot #110

Name and Address of Applicant &: Stephen Milman
Property Owner: 5 Pratt Island
Darien, CT 06820

Activity Being Applied For: Proposal to install a retaining wall with associated fill, and perform related site activities within regulated areas.

Property Location: The subject property is located approximately 600 feet southwest of the intersection of Nearwater Lane and Baywater Drive.

Zone: R-1

Date of Public Hearing: June 25, 2013 continued to July 23, 2013, July 30, 2013 (no testimony taken on those three public hearing nights), and September 10, 2013

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

Publication of Hearing Notices
Dates: June 14 & 21, 2013 Newspaper: Darien News

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

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

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the property owner/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. As noted by the property owner/applicant, the application is to install a low stone retaining wall with associated fill, and perform related site activities within regulated areas. As described by the property owner/applicant at the public hearing, the goal of the wall is to prevent further loss of his property, which is adjacent to Long Island Sound. The property owner/applicant explained that in the 20 years they've owned the property, they did not have any erosion or scouring problem until the storm in 2011 and Storm Sandy in 2012. He said that in 2011, they lost 2 – 3 feet of their landscaped yard and they replanted that area. In 2012, the new plantings were washed away and a slightly larger area was eroded. The proposed wall will be approximately 90 feet long and will be located above the high tide line and the coastal jurisdiction line. The wall will be anchored to the existing ledge so that it will not be damaged by storms or slip away.
2. The public hearing was originally opened on June 25, 2013. Earlier in that day, a June 25, 2013 memorandum was received from the CT DEEP that asked if the property owner/applicant could consider alternatives, such as landscaping. The public hearing was then continued to July 23, 2013, July 30, 2013 and September 10, 2013, in order to allow the property owner/applicant additional time to work with the DEEP, and respond to their concerns.
3. Mr. Milman, the property owner/applicant, has noted that after the 2011 storm, they did plant the disturbed areas, but all that material was washed out to sea in 2012. He said that two letters discussing alternatives by the engineers and suggestions of the CT DEEP will just not work given the circumstances of the property and the storm conditions. Mr. Milman said that the CT DEEP comments are guidance to the Planning & Zoning Commission but they are not binding upon the Commission. He said the decision whether to allow the wall on the residential property in Darien is up to the Planning & Zoning Commission. He said the CT DEEP is mostly concerned with seawalls and hardening of the shoreline. He said that this proposed wall is neither. He said that CT DEEP allows seawalls only to protect endangered dwellings yet they have no guidelines as to what defines an endangered dwelling. He said the CT DEEP seems indifferent to the loss of trees, land, gardens and other natural vegetation.

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4. At the public hearing, Mr. Milman said the proposed is similar to that of his neighbors and the only fill would be to replace the soil that was washed out during the 2012 storm. He said they are restoring the old grade, not raising the grade compared to what it was prior to the storms.
5. Professional Engineer Wayne D'Avanzo said the proposed wall would be a maximum of two feet high and 90 feet long. It will have weep holes in it so that water will be able to flow from the uphill side to the down side and drain through it rather than be held behind it. He said that the plan is to connect the proposed wall to the neighbors wall in order to avoid any scouring between the two sites.
6. Weep holes will be placed 8 feet on center and will allow the soil on the uphill side of the wall to drain properly rather than being washed away. Mr. Milman said that plantings will be placed in the fill material on the uphill side of the wall. He said that the first attempt at planting was washed away by the 2012 storms because the soil holding those plants was not protected. He said that currently the Williamson wall ends approximately 3 feet shy of the Milman property. The plan is to connect these two walls to avoid any problem.
7. As part of this application, an August 28, 2013 3-page letter from professional engineer Devin Santa of Roberge & Associates Consulting Engineering (RACE). In that letter, Mr. Santa mentions the unique circumstances of this site, and he states that the stone wall in this particular situation is a good idea.
8. All of the proposed work is outside of the DEEP jurisdiction line, which is at about Elevation 5.5 in this part of Darien. Since the work is outside of the DEEP jurisdiction, no permit will be needed from that state agency. Since no work is in DEEP jurisdiction, it is up to the Planning & Zoning Commission to decide whether to allow the work. At the public hearing, the property owner/applicant confirmed that no work needs to go into the DEEP jurisdiction in order to implement the construction of the wall.
9. Bob Williamson of Pratt Island (on the directly adjacent property) said that he is in support of the proposal and the proposed wall will protect and preserve trees.
10. It appears that in this specific instance, the property owner/applicant owns a unique site and has explained to the satisfaction of the Commission why vegetative alternatives won't work. And given that what the property owner/applicant is proposing is to simply restore the land, at the same grade, out to the point it used to be, and he will be connecting into an existing stone structure on his neighbor's property, and that they all tie into ledge. In addition, the Commission has received testimony from two professional engineers on this matter. The Commission believes that this is the option which is the "least intrusive upon the natural state".
11. The application has been reviewed by the Commission and, as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
12. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.

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13. 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.
14. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
15. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
16. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #287, Flood Damage Prevention Application #328, and Land Filling & Regrading Application #306 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Wall construction and other related site development activity shall be in accordance with the following plans as submitted to the Commission:
 - Retaining Wall Plan, Stephen Milman 5 Pratt Island, by Fairfield County Engineering, LLC., dated 4-23-13 received May 14, 2013, Sheet 1 of 1.
 - Detail Sheet, Stephen Milman 5 Pratt Island, by Fairfield County Engineering, LLC., dated 4-23-13 received May 14, 2013, Sheet 2 of 2.
- B. In order to assure that no work is done in DEEP jurisdiction and that work proceeds cautiously on this sensitive area, a very detailed construction methodology must be submitted to the Planning and Zoning Office by October 28 (or prior to the start of work), and must be implemented to assure no work is done within the DEEP jurisdiction. The property owner/applicant has represented that in this case, it would be 3 or 4 masons doing the anchoring work and making sure the wall is properly adhered to the existing ledge. He said that there would be no environmental impacts due to the work.
- C. Due to the nature of this project, the Commission hereby waives the requirement for a performance bond.
- D. Because the proposed work is directly adjacent to Long Island Sound and is not creating any new impervious surface, the Commission also waives the requirement for stormwater management under Section 880.
- E. During the excavation, filling, regrading, and site work, the property owner/applicant shall utilize the sediment and erosion controls illustrated on the Site Plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including tree protection measures, as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has

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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.

- F. Once the project is complete, and prior to October 8, 2014, the property owner/applicant shall certify in writing and/or photographs that all work has been properly completed in accordance with the approved plans. This shall include written certification by the project's professional engineer that the wall and grading has been installed according to the approved plans, and certification that all construction complies with the Flood Damage Prevention Regulations.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the property owner/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.
- H. The granting of this approval does not relieve the property owner/applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. This permit shall be subject to the provisions of Sections 815, 829, 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 (October 8, 2014).

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 start of the proposed work, or this approval shall become null and void.

Chairman Spain read the following agenda item:

Special Permit Application #278/Site Plan, Darien Spa & Nails, 355 (aka 351) Boston Post Road. Proposal to establish a nail salon on the first floor and in a portion of the unfinished basement of the existing building, in the space formerly occupied by Knock on Wood.

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 Ms. Cameron, seconded by Mr. Olvany and approved by all except Mr. Cunningham who abstained because he was not at the public hearing. The motion was passed by a vote of 5-0-1. The Adopted Resolution reads as follows:

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ADOPTED RESOLUTION
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Application Number: Special Permit Application #278/Site Plan
Darien Spa & Nails

Street Address: 355 (aka 351) Boston Post Road
Assessor's Map #14 Lot #51

Name and Address of Applicant: Jeong Sook Choe
40 East Parkway
Scarsdale, NY 10583

Name and Address of:
Property Owner: Colonial Land Limited Partnership
90 Brookdale Drive
Stamford, CT 06903

Name and Address of:
Applicant's Representative: Frank Kim
Concept Design Group
164-09 Northern Blvd, 2nd Fl.
Flushing, NY 11358

Activity Being Applied For: Proposal to establish a nail salon on the first floor and in a portion of the unfinished basement of the existing building, in the space formerly occupied by Knock on Wood.

Property Location: The subject property is located on the north side of Boston Post Road at its northwest corner formed by its intersection with Birch Road.

Zone: DB-2

Date of Public Hearing: October 1, 2013

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

Publication of Hearing Notices
Dates: September 20 & 27, 2013

Newspaper: Darien News

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

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

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, 905, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted information, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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

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

1. The proposal is to establish a nail salon on the first floor and in a portion of the unfinished basement of the existing building, in the space formerly occupied by Knock on Wood (and prior to that, the space which was occupied by the Harrel Shop) within the building on the subject property. Other uses now in the building include a dry cleaner (Greenfield Cleaners), a music store (Giuliano's Music Center), and a retail package store (Darien Discount Wines & Spirits). The proposed business will provide pedicures, manicures, massages and waxing. No change in the building footprint is proposed.
2. Darien Spa & Nails is considered a Personal Service use, which is a Permitted Principal Use Requiring a Special Permit under Section 624c of the Darien Zoning Regulations in the DB-2 Zone. As noted within the submitted application materials, the business will have 1,784 square feet.
3. As put forth by the applicant, Darien Spa & Nails may open as early as 10 a.m. on weekdays, and remain open until 8 p.m. at the latest. No outdoor activity is proposed.
4. The existing shopping center has been in existence for over 30 years. The center consists of 8,591 square feet, and has 40 parking spaces. According to the Darien Zoning Regulations, the shopping center would require a total of approximately 57+/- on site parking spaces, but there are approximately 40 parking spaces for the building on the subject property. In this case, the Commission will make a finding under Section 905 of the Darien Zoning Regulations that due to the unique nature of the Shopping Center, and the nature of the existing and proposed uses, the parking is adequate. The proposed use is more parking intense than typical retail stores, but because they are only leasing a small portion of the Shopping Center (about 1,784+/- square feet), the Commission finds that no increase in parking spaces would be necessary. The Commission also finds that the proposed capacity of the on-site parking will meet the intent of the regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #278/Site Plan is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. The Commission hereby approves the proposed Personal Service 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.

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- B. At the public hearing and within the submitted application materials, the applicant noted that there will be a maximum of seven pedicure stations, seven manicure stations, one massage room and one wax room. The Commission has relied upon these representations, and approves specifically no greater activity than that shown on the plans. Any increase in the number, requires subsequent review and action by the Commission.
- C. The applicant noted that in the pre-existing basement, they will be installing a washer and dryer. No finished space in the basement and no customer spaces in the basement are being proposed or are being approved herein. Any future increase in useful basement space other than for a washer/dryer will need to be reviewed and acted upon by the Planning and Zoning Commission, due to the fact that there are not sufficient on-site parking spaces.
- D. The applicant has proposed maximum of hours of operation of 10 a.m. to 8 p.m. daily. Because of the nature of the business which is entirely indoors, the Commission hereby approves these maximum hours of operation. Any expansion of hours requires subsequent review and action by the Commission.
- E. 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.
- 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 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 review and action by the Darien Health Department. Any desired signage requires review and action by the Architectural Review Board (ARB).
- H. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 8, 2014). This may be extended as per Section 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 approved plans by the Chairman, or this approval shall become null and void. 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 or Building Permit, or this approval shall become null and void.

Chairman Spain read the following agenda item:

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Deliberation only on the following:

Proposed Amendments to the Zoning Regulations (COZR #4-2013) put forth by the Tokeneke Club, Inc. Proposal to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the first and largest court of any pervious tennis or recreational court in the calculation of “Building Coverage” for lots in commercial zones or special permit uses on lots in residential zones.

Commission members agreed to discuss this matter at the next meeting.

Chairman Spain read the following agenda item:

Court-ordered remand regarding Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street. Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities.

Commission members agreed to discuss this matter at the next meeting.

Chairman Spain read the following agenda item:

Special Permit Application #277/Amendment of Site Plan #248, Day Street Development LLC., 13 Grove Street. Proposing to establish a wine bar/restaurant and retail wine store in the first floor of the building now under construction at 13 Grove Street.

Commission members discussed the pending application. Ms. Cameron said that she has huge concerns about the restaurant use and the inadequacy of on-site parking and nearby parking, particularly at the lunchtime rush, when many other businesses are in full operation. Mr. DiDonna said that he understands that the Board of Selectmen might be making modifications to the daytime parking in the area and suggested that the applicant withdraw the pending application and re-submit a new application in the future. Mr. Voigt said that there is a problem with only 12 on-site parking spaces. He questioned how many patrons would walk from other businesses in Town without driving to the site. Mr. Spain said that other businesses in the area need the short term parking spaces that are close to them and he questioned how much the patrons of the proposed restaurant would impact those other businesses. Mr. DiDonna said that people will park as close as possible to the restaurant and that will consume the parking spaces that other businesses depend on. Mr. Voigt said that on Saturday evenings, many parking areas in the vicinity are already packed to accommodate the existing businesses. Mr. Spain said that there is a deficiency between the parking study of 2008 and the current parking study. He said that the combined parking demand is not just the restaurant use but it is the other businesses in the area as well.

No action was taken on this application.

Chairman Spain read the following agenda item:

Approval of Minutes

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September 10, 2013 Public Hearing/General Meeting

Commission members discussed and agreed upon minor clarifications and corrections of typographical errors. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Ms. Cameron and seconded by Mr. Voigt. All voted in favor except Mr. DiDonna who abstained, because he was not at the meeting.

September 17, 2013 Public Hearing/General Meeting

The following motion was made: That the Planning & Zoning Commission adopt the minutes as corrected. The motion was made by Ms. Cameron and seconded by Mr. DiDonna. All voted in favor except Mr. Cunningham, who had not been present at the meeting.

September 24, 2013 Public Hearing/General Meeting

The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Ms. Cameron and seconded by Mr. DiDonna. All voted in favor except Mr. Cunningham and Mr. Voigt who had not been present at the meeting.

There being no further business the meeting was adjourned at 11:14 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director