

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 1, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Cameron, Hutchison, Cunningham, Spain, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

CHANNEL 79

PUBLIC HEARING

Mr. Conze read the first public hearing agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #271, Flood Damage Prevention Application #307, The Tokeneke Association, Inc., Cross Road Causeway, Pound Gut Seawall, Arrowhead Causeway. Proposing to: a) repair an existing stone masonry and concrete causeway at Cross Road at its intersection with Scott Cove, which is adjacent to the properties shown on Assessors Map #65 Lot #8A (4 Cross Road), and on Assessor's Map #67 as Lot #87 (22 Searles Road) and Lot #88 (1 Coves End Road) in the R-1 Zone; b) repair an existing stone masonry seawall and causeway adjacent to Pound Gut, which is adjacent to the properties shown on Assessor's Map #67 as Lot #65 (2 Contentment Island Road), Lot #47 (31 Edgehill Drive), and Lot #85 (28 Searles Road) in the R-1 Zone; and c) repair an existing stone masonry and concrete causeway located at the junction of Arrowhead Way and Tokeneke Trail, which is adjacent to properties shown on Assessor's Map #69 as Lot #21 (36 Tokeneke Trail), Lot #41 (33 Tokeneke Trail), and Lot #20 (71 Arrowhead Way) in the R-1 Zone; and perform related site development activities within regulated areas. *HEARING OPENED ON MARCH 27, 2012 AND WILL BE CONTINUED AGAIN ON MAY 22, 2012.*

The Public Hearing regarding this matter will be continued on May 22, 2012 at the applicant's request. Chairman Conze then read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #125-E/Site Plan, Town of Darien, Mather Community Center, 2 Renshaw Road. Proposing to construct additions and alterations to the existing Town Hall building for the establishment of the Mather Community Center/Senior Center, and perform related site development activities. The subject property, Darien Town Hall, is located on the northeast side of Renshaw Road at its intersection with Park Place, and is shown on Assessor's Map #41 as Lot #85 in the R-1/3 Zone. *PUBLIC HEARING OPENED ON APRIL 24, 2012.*

Project Architect Kevin McFarland, of Quisenberry Arcari Architects, LLC, said he wanted to explain his responses regarding the items that were still left open from the previous meeting. He reviewed his April 27, 2012 Response Letter and noted that four large existing trees will be removed on the eastern side of the building and several new trees will be planted. One of the new

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trees will be on the east side of the building, one will be on the west side of the building and three will be planted on the north side of the building.

With respect to water quality, Russ Cyr, P.E., explained that they will install cultec units in the driveway area to cleanse storm water runoff from the site before it reaches Stony Brook. These infiltrators are not intended to provide storm water detention, but will dissipate storm water runoff from the first inch of rainfall, as well as providing storm water quality enhancement.

Mr. McFarland noted that water quantity management (detaining storm water on-site and releasing it slowly at a later time) is not recommended, due to the lower position of the site within the water shed. He said that they will be adding pervious pavers to be used to allow greater infiltration of surface water, even though the surface pavers are frequently counted in their storm water computations as being impervious type material.

With respect to trash Dumpsters, Mr. McFarland explained that there are no trash Dumpsters on the Town Hall site at this time. The Senior Center does have one trash Dumpster that is picked up on a weekly basis. As part of the proposed Community Center, they will be installing a pad and an enclosure to contain one large, 12 yard Dumpster. This Dumpster enclosure area will be located to the west of the Community Center kitchen and will be picked up regularly, as frequently as needed.

Tom Arcari reviewed the programming reports and documents that had been submitted to the Commission for review. It was noted that the programming for activities conducted within the Community Center as well the existing Town Hall facilities need to be coordinated because the activities will impact the parking demand. The submitted materials detail the current programs and facilities at the Senior Center and the expected programs to be conducted within the Community Center.

Mr. Arcari noted that the peak parking demand for the current Senior Center is generally between 10:00 a.m. and 2:00 p.m. It was also noted that the parking demand does not equal the number of attendees at events because many people share a ride or are dropped off at the site. It was also noted that many people at the Community Center attend numerous events in one day and this does not generate additional on-site parking demand.

Mr. Conze noted that under the submitted Program Plan, there is considerable space within the Community Center that will remain unused for substantial periods of time. He wondered whether the spaces could be leased to outside groups when they need to utilize a space for meetings or activities. He noted that this Mather Community Center would be a great asset to Town if it is properly utilized.

Mr. Arcari agreed that space would be available within The Community Center and the future use of that space would be subject to decisions by the Town. In response to questions, he said that the use of space and the coordination of program facilities at The Town Hall site is currently administered by the Parks and Recreation Department and it is likely that they will coordinate the use of the Mather Community Center facilities as well.

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Mr. Arcari said that the proposed kitchen facilities would have a complete exhaust and filtration system with a full hood that complies with all Fire Code requirements. He said that the filtration system will include cleanable filter units so that they can be easily and properly maintained.

Mr. Conze noted that the YMCA and other Special Permit users annually submit a calendar of Special Events and larger activities to the Planning & Zoning Commission for review. It might be appropriate for the Community Center to do something similar so that there is forethought in the planning and scheduling process and coordination with other Town agencies regarding the uses of the Community Center and the parking demands that it will create. Mr. Arcari said that changes of programming will need to be addressed by the appropriate community agencies.

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

At about 8:30 p.m., Chairman Conze then read the following agenda item:

Proposed Amendments to the Darien Zoning Regulations #1-2012, put forth by Baywater 745 BPR, LLC. Zoning Regulation amendments are proposed to Section 585 which would allow the Commission to grant an incentive for building coverage for inclusionary zoning projects. The full text of the proposed zoning regulation amendment is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. The 745 Boston Post Road property is on the northwest corner formed by the intersection of Academy Street and Boston Post Road, and is shown on Assessor's Map #16 as Lots #15 and #16 and is in the DB-1, and R-1/3 Zones and DBR overlay Zone.

Attorney Robert F. Maslan Jr. was present to discuss the application. He explained that this request is part of the redevelopment of 745 Boston Post Road and the Commission previously approved the concept and the requested changes to the regulations and the site specific development plan. Unfortunately, it was later discovered that a miscalculation had been made regarding the proposed building coverage. One or both of the garage structures had not been included in the building coverage calculation, and therefore, the exemption that the Commission had incorporated into the Regulations was not sufficient to accommodate the development that the Commission had approved. The current proposed amendment is to change further the regulations so that instead of a 25% increase of building coverage, the Regulations would allow the Commission to increase the building coverage to 50% of what is normally allowed.

Mr. Ginsberg then read aloud comments from the South Western Regional Planning Agency (SWRPA) as noted in their April 2, 2012 response. They noted that the change is not likely to have any inter-municipal impact provided the DB-1 Regulations are not extended into areas closer to the municipal boundaries. Attorney Maslan noted that this project was approved under the Design Business and Residential (DBR) Regulations. Mr. Maslan said that the proposed modifications are now an exception of 50% of the normal regulations. Mr. Maslan said that exception should only be allowed if the size and proposed development will not negatively impact adjacent properties. Mr. Spain said that there had been some preliminary discussions at a prior meeting about amending the Regulations with respect to the definitions of building coverage and making an exception that is

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more complicated based on the zone, and that had focused on maximum building coverage of full height buildings. Mr. Maslan said that it was discussed, but the Commission determined that would be too complicated and would not be appropriate. Mr. Spain said that the purpose of changing the Regulations again is to allow the approved parking spaces to become covered or actually enclosed garage parking spaces. It does not allow more development activity than would otherwise be permitted under the recent amendments. David Genovese, project applicant, said that in any case, the exception is at the discretion of the Planning & Zoning Commission when considering a Special Permit application within this Zone.

Mr. Hutchison asked about the impact of the amendment on the properties that contain more than one acre, instead of limiting the change to just parcels that are less than one acre. Mr. Spain said that the DB-1 Zone is specially designed to discourage the compiling of smaller parcels into a larger development site of an acre or larger.

Mr. Maslan said that the purpose of this proposed amendment is to close a gap in the previous approval process. He said that if the Commission approves and adopts the amendment, there would be no need to go back and amend a project or the approval for a project. He said that the proposed amendment would allow the Commission to grant up to a 50% exception, but only if the Commission finds that it will not affect the nearby residential properties.

Regarding the discussion of lot sizes in the area, Mr. Ginsberg suggested that the Commission include in the record a copy of Assessor Map #16 to show the size of the nearby properties. Everyone agreed to including Assessor's Map #16 in the record.

There were no comments from the public regarding the proposed amendment to the Regulations. The following motion was made: That the Planning & Zoning Commission close the Public Hearing regarding this proposed amendment. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison and unanimously approved.

At about 8:50 p.m., Chairman Conze then read the following agenda item:

Land Filling & Regrading Application #272, Peter & Suzie Jellinek, 110 Nearwater Lane.

Proposal to use excavated material from construction of new house to fill and regrade the area between the house and Nearwater Lane, and to perform related site development activities. The subject property is located on the east side of Nearwater Lane, approximately 360 feet north of its intersection with Juniper Road, and is shown on Assessor's Map #57 as Lot #5, in the R-1 Zone.

Dean Martin, PE, explained that the current application concerns filling and regrading in association with the house that is currently being constructed. The high part of the property is on the east end of the site and it slopes down in a westerly direction towards Nearwater Lane. The regrading would allow the material that has been excavated from the foundation hole to be spread on the property to make the downward grade less severe and make more flat area for usable yard space. A retaining wall would be constructed parallel to Nearwater Lane and no filling or regrading would take place within 15 feet of the westerly property line (adjacent to Nearwater Lane). Mr. Spain asked about the area to the west of the retaining wall and the response was that it will remain a vegetative soil to collect storm water. Mr. Martin explained that most, if not all, of the fill needed for the project is already located on the site and is stock piled as a result of the excavation for the

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house and swimming pool. The regrading would create a flatter back yard space for the residence and would eliminate the need to haul many truck loads of dirt from the site. Stormwater runoff from the developed areas of the property would be collected and placed into infiltrators so that it can soak into the ground. Mrs. Cameron suggested the use of rain gardens to allow for surface storage and infiltration of surface runoff. Mr. Martin said that his client chose to use the underground infiltrators so they will be out of sight but he will investigate the use of rain gardens and discuss this matter with his client.

The driveway access to the property is from a common driveway located to the north. There is no access driveway from Nearwater Lane to the westerly portion of the site. To the north and south of the proposed fill area, flattened slopes will allow for storm water to drain in a westerly direction rather than pushing the water towards neighbors to the north and south. Mr. Martin said that there are also culvert units designed to accommodate the storm water runoff on the very easterly end of the site.

Attorney Maslan said that he would like the Planning & Zoning Commission to review the cupola designed for the top of the proposed house and a second cupola designed to be above the garage. The Zoning Enforcement Officer has approved the house location, but deleted the proposed cupolas because they exceed four feet in height and four feet in width. If they want to build a cupola larger than four feet high or four feet wide, the Zoning Officer said that they need to get approval from the Planning & Zoning Commission or the Zoning Board of Appeals.

Attorney Maslan said that the Regulations indicate that cupolas will not be counted in building height calculations provided they occupy less than 15 percent of the roof area, and are only as large as necessary to fulfill their intended purpose. In this case, the height of the cupola is approximately nine feet from the ridge of the main roof to the peak of the cupola structure.

Mr. Spain asked about the amount of area within the house that would be illuminated by the proposed cupola, and asked if such a factor should be a factor considered by the Commission. Attorney Maslan responded that the proposed cupola will illuminate a central hallway within the building and is proportional to the size of the proposed building. He showed and submitted drawings of the proposed cupola and the proposed house. He said that the proposed cupola will not add any additional living space.

Chairman Conze said that it would probably be best to consider changing the Regulations before acting on the individual proposal for this cupola on this particular house.

There were no comments from the public regarding the matter. There was some discussion about whether to close the public hearing at this point or to leave it open so that the applicant could submit information about the use of a rain garden.

The following motion was made: That the Commission close the public hearing at this time and render a decision regarding the application at a future date. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

At about 9:10 p.m., Chairman Conze then read the following agenda item:

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Land Filling & Regrading Application #268, Jack Procaccini, 42 Wakemore Street (formerly known as 0 Wakemore Street). Proposing to: relocate a single-family residence from an adjacent parcel to the northwest of the subject property onto the subject property; add to that residence; add a garage and new driveway; and perform related site development activities. Subject property is located on the north side of Wakemore Street approximately 900 feet east of its intersection with Hoyt Street, and is shown on Assessor's Map #8 as Lot #228 & #229 in the R-1/3 Zone.

Jack Procaccini explained that his existing residence is on the property that is being developed by CL Darien Partners, LLC (the Kensett Lane project). That house will need to be moved to a vacant building lot on Wakemore Street. Regrading of that property is necessary to accommodate the proposed development.

Mr. Ginsberg said the Environmental Protection Commission (EPC) had granted approval on March 19, 2012 for the proposed re-development of the property that includes a wetland area on the northwest corner of the site. The applicant still needs to provide a detailed Planting Plan for the wetlands and the conservation easement to be created and the Environmental Protection Commission needs to make sure that the approved drainage plan is properly implemented and that an as-built drawing and certification of the implementation is submitted.

Mr. Ginsberg said that the Department of Public Works has reviewed the Project Engineer's calculations regarding storm drainage and they seem to work. The Department of Public Works is not involved in this project because Wakemore Street is a private road. Mr. Ginsberg also noted that water and sewer service for the new house location must be provided. It might turn out that a temporary water service is installed. A permanent water service would be installed at a later date.

There was a discussion about the large volume of storm water that flows northerly closing a watercourse from the north side of Camp Avenue toward the site. On the south side of Wakemore Street, that watercourse goes into a pipe. Mr. Procaccini added that that stormwater pipe travels through his property and will need to be relocated by CL Darien Partners LLC, because it flows right under his proposed house location. Commission members thought it was important that a final as-built map show the actual location of where that stormwater pipe is relocated.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing regarding this matter and render a decision at a future meeting. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison, and unanimously approved.

At about 9:25 p.m., Chairman Conze then read the following agenda item:

Coastal Site Plan Review #110-A, Flood Damage Prevention Application #93-A, Thomas & Nancy Cornacchia, 7 Baywater Drive. Proposing to construct additions and alterations to the existing single-family residence and perform related site development activities within regulated areas. The subject property is on the south side of Baywater Drive approximately 150 feet east of its intersection with Nearwater Lane, and is shown on Assessor's Map #55 as Lot #103 & 104, in the R-NBD Zone.

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Lance Zimmerman, Project Architect, explained that the existing house is located on the property which is located between Baywater Drive and the bay. The proposed addition will add 249 square feet of additional building coverage. The existing porch and deck space will be modified on the south and east sides of the house. All the new living space will be elevated to be at least Elevation 12, in accordance with the Flood Damage Prevention Regulations. This structure will be located on pier type supports so that flood waters can flow underneath the floor areas. He reviewed the plans for the proposed additions and alterations. Mr. Zimmerman asked the Commission to waive the requirement to submit a full, detailed Engineering Drainage Study because this flow of stormwater from the property goes through the existing lawn area, then down to the sandy beach and then out to the open waters of a bay of Long Island Sound. Mr. Zimmerman said that there will be no impacts on any coastal resources because no construction is getting any closer to the beach than the existing structures. He said that the lawn area is very sandy and water percolates through it very well. He said that no trees will be removed and proper sediment and erosion controls will be utilized during the implementation of the project.

Mr. Ginsberg said that the application materials were forwarded to the Connecticut Department of Energy and Environmental Protection and they chose not to comment regarding the proposed work.

There were no comments from the public regarding the application. Commission members reviewed the applications materials. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application and render a decision at a future meeting. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

At approximately 9:30 P.M., Chairman Conze called the General Meeting to order. He read the following agenda item:

GENERAL MEETING

Amendment of Special Permit #42-H/Site Plan, Parklands Office Park, LLC, 3 Parklands Drive.

Request for modifications to Site Plan and Special Permit to: 1) construct a 460+/- square foot terrace; 2) relocate Dumpster with associated fence/screen; and 3) revise the previously approved landscaping plan. The subject property is shown on Assessor's Map #35 as Lot #34 in the DOR-5 Zone.

Attorney Wilder Gleason explained that this is a 7.9 acre parcel that contains two large office buildings and a common parking area. A conservation easement was created to separate the developed portion of the commercial property from the neighboring residential properties on Fairmead Road. He said that several years ago, the office building owner converted a loading dock area behind 3 Parklands Drive into a landscaped area because they do not have any delivery trucks that need to access the building. They also relocated the trash Dumpster area and since there was plenty of parking, they modified the parking spaces somewhat. Within the past few months, a patio/terrace has been constructed on the northeast side of the building. The area under the terrace was then back filled, so that the patio/terrace is on ground rather than being supported in the air, like an elevated deck. This patio/terrace area is a site change that was conducted without Planning & Zoning Commission approval. Mr. Gleason said that deciduous trees provide a substantial screen

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and buffer between the patio/terrace and the residential neighbors. No work has taken place within the conservation easement. He submitted a copy of the conversation easement for the Commission members to review. Mr. Gleason also submitted a topographic plan showing that the nearest house (at the end of Fairmead Road) has a ground elevation of 70 and the patio/terrace has an elevation of 76. Between those two features the ground rises to approximately elevation 90. He submitted photographs of the site and the surrounding area.

Attorney Gleason said that the current Dumpster location is not properly screened in and they proposed to provide screening or to relocate it to its original position. He said that the owner will inquire with his trash hauler to try to make sure that the trash is not picked up prior to 7 A.M. There was some discussion about the air conditioning chiller unit located adjacent to the building. Property owner, Bob Gillon said that the chiller unit had been installed many years ago and had to be replaced approximately five years ago.

Attorney Gleason said that the elimination of the loading zone reduced the number of on-site parking spaces by one and that the patio/terrace area is not in the conservation easement area and does not affect any nearby properties and will be landscaped and screened if the Commission so desires. He said that the patio/terrace is on ground level and then has a knee-high or waist-high wall surrounding it, which is one of the reasons that it looks higher from the outside than it does from inside the building. He said that the Planning & Zoning Commission could consider this a minor amendment of the previous approval and therefore should not require a Public Hearing prior to rendering a decision.

Mr. Ginsberg said that under Section 1008 of the Regulations this 150 square feet patio on a 7.9 acre property does seem to be proportionally minor.

Bob Gillon responded to a question and said that on the northeast side of the building there had been only windows. The CEO of the new tenant wanted to be able to step out to enjoy the beautiful, natural surroundings. He said that the patio/terrace is accessible only from the CEO's office area and will not be used by other employees or for lunch time activities or for any other activity. He said that the patio/terrace is for the CEO's private use. There is no outside exit from the patio/terrace to the rest of the grounds. In order to leave the building, you would need to go back into the office and then depart through the main door. He said that a stipulation of approval to that effect would be fine. He said the door from the CEO's offices to the patio/terrace was recently installed. In response to other questions, he said that the northeast portion of the building was not routinely used by any employees or staff of the building in the past. The inclusion of the door from the CEO's office onto the patio/terrace will not change that fact. In response to another question, Mr. Gleason said that no activity is allowed to take place within this conservation easement and none is planned. There is no setback requirement from the conservation easement. The setback requirements are measured from the property lines not the easement.

Mr. Spain said that he is disappointed that so much work had taken place without permits or approvals and is concerned about the precedent of such actions. Mr. Gleason said that the changes are minor, and have no impact on anyone.

Christina Orsi Lirot spoke. Mr. Hutchison asked her if she was comfortable with his participation in this matter since the two of them had had business dealings in the past. She said that she had no

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reservations with Mr. Hutchison's participation. Mrs. Lirot said that she lives at 9 Fairmead Road and also owns #23 Fairmead Road and she said that she also has options to purchase 2 other properties on the street. She asked if the Commission members had received the e-mails that she had sent to staff. Commission members said that they had received and read the emails that had been forwarded by the staff. Mrs. Lirot said that the changes to the site should be considered major modifications because there was a very site specific design originally proposed; and this development proposal was contentious when it was first proposed. The result was the very specific building locations, parking lot locations, conservation easement, and other limitations on the office development. She said that the patio/terrace is not built at the existing ground level, instead the grade around it has been raised after the patio/terrace was built. She said that the greenbelt that Mr. Gleason referred to is in the conversation easement area that was created to protect the residential neighbors. She said that the noise and commotion from the development activity has rendered her residential property virtually un-rentable. She said that at the very least, the Planning & Zoning Commission needs to hold a Public Hearing, due to the numerous issues that have been raised, because the owners of the property have made so many modifications and changes without the Commission's review or approval. She said that the building is at the coverage limit, and no additional building or development can be accommodated on site. She said that the Fairmead Road neighborhood consists of people who have been there for a long time. The noise and the actual use of the patio/terrace are a big concern, as is the precedent of the developer building first and then asking later. Mr. Conze said that he visited the site, and said that he could not see the residential houses from the patio/terrace. He said that this seems to be a benign addition for the use of one person, the CEO. He said that he is very cognizant of the noise created by the Dumpster pick up process, because he lives near a similar situation.

Mrs. Lirot said that the patio was built and then back filled to cheat and call it an "at grade" patio/terrace. Mrs. Cameron said that adding a door on the side of the building that was designed not to have any egress is somewhat of a big deal. Mrs. Lirot said that the way the whole issue has come about is wrong, and should not be tolerated. Mr. Ginsberg said that he has referred the matter to the Building Department to make a decision about whether the patio/terrace needs a Building Permit or not.

Mr. Conze said that perhaps the building owner needs to meet with the neighbors prior to the next meeting so that they can work out any differences, questions, and issues. Mr. Gleason said that this is really a minor amendment and is being blown out of proportion. He said that there is currently a Building Permit to renovate the interior section of the building. The owner will need the Certificate of Occupancy for that space within the next month or so. In order to avoid any concerns by the Commission, the owner is willing to lock the door and not have any use of or access to the patio while the matter is being discussed and decided by the Commission. Mr. Hutchison said that the Certificate for work within the interior space would seem appropriate, provided that there is no activity or use of the patio/terrace. This would include having no furniture and no lighting and no access to the patio/terrace area.

The Commission members decided that it would be appropriate to conduct a Public Hearing regarding these proposed modifications. The Public Hearing will be scheduled for May 22, 2012. No other action was taken on the request at this time.

Chairman Conze then read the following agenda item:

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Discussion, deliberation and possible decision on the following item:

Land Filling & Regrading Application #111-A, Town of Darien, Park and Recreation Commission, Cherry Lawn Park, 120 Brookside Road. Proposing to cut, fill, and regrade Gallagher Field in the northwest corner of the property, and perform related site development activities. *PUBLIC HEARING CLOSED APRIL 24, 2012. DECISION DEADLINE: 6/28/2012.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the entire draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

Mrs. Cameron and Mr. Cunningham suggested that the resolution be modified to make it more clear that plants are to be added along the street (Brookside Road) of the proposed four foot high chain link fence or that the chain link fence be eliminated and a split rail fence with dark wire backing be used instead. The Commission members would much prefer the split rail and wire fence rather than a chain link fence. The following motion was made: That the Planning & Zoning Commission adopt the following revised resolution to approve the project subject to the noted conditions and stipulations. The motion was made by Mr. Hutchison and seconded by Mrs. Cameron. All voted in favor except Mr. Voigt who abstained because he had not attended the Public Hearing regarding this application. The motion passed by a vote of 5-0-1. The revised, adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 1, 2012**

Application Number: Land Filling & Regrading Application #111-A

Location & Street Address: Cherry Lawn Park – 120 Brookside Road
Assessor's Map #11 Lot #31

Name and Address of Applicant: Darien Little League and
Darien Park and Recreation Commission
2 Renshaw Road
Darien, CT 06820

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

Name and Address of Applicant's Representative: Susan Swiatek
Park and Recreation Director
C/o Town Hall
2 Renshaw Road
Darien, CT 06820

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Activity Being Applied For: Proposing to cut, fill, and regrade Gallagher Field in the northwest corner of the property, and perform related site development activities.

Property Location: The Cherry Lawn Park property is on the east side of Brookside Road 700 feet north of its intersection with Overbrook Road.

Zone: R-1 Zone

Date of Public Hearing: April 24, 2012

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

Publication of Hearing Notices

Dates: April 13 & 20, 2012

Newspaper: Darien News

Date of Action: May 1, 2012

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
May 11, 2012

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, 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 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 cut, fill, and regrade Gallagher Field in the northwest corner of the property, and perform related site development activities. The proposal will shorten the existing field by about 20 feet, thereby essentially allowing its use for Little League, rather than adults. No adult baseball groups will be allowed to reserve the field. It was noted that the field is not currently properly graded, and there is a need to correct these grades. The grading will improve both safety and drainage.
2. The Zoning Board of Appeals approved this application on April 11, 2012 (ZBA Calendar #16-2012). That approval is hereby incorporated by reference.

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3. As part of this application, various drainage improvements are proposed. Those are shown on the submitted plans. The overall intent is to have the fields drain better. Irrigation of the field is also proposed as part of this application. There is no change to any of the parking lots within Cherry Lawn Park.
4. Various black enamel chain link fences are proposed in order to improve safety for both players and spectators. At the public hearing on this matter, a neighbor mentioned his concerns with the amount of chain link fencing to be installed along Brookside Road as part of this application. At the hearing, Commission members noted that plantings and boulders in front of the fence nearest Brookside Road may assist in minimizing the visual impacts of these fences.
5. The location and size of the use, the nature and intensity of the proposed cutting, filling and regrading operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
6. The location and nature of the proposed cutting, filling and regrading are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The design, location, and specific details of the proposed work and site development will not adversely affect safety nor increase traffic congestion in the streets, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #111-A is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading and related activity shall be in accordance with the following submitted site development plans as required to be modified herein:
 - Darien Little League 120 Brookside Road (Cherry Lawn) Proposed Little League Field, by DiVesta Civil Engineering Associates, Inc., dated 8/5/11 and received March 17, 2012. Sheet No 1 of 2.
 - Darien Little League 120 Brookside Road (Cherry Lawn) Details, by DiVesta Civil Engineering Associates, Inc., dated 8/5/11 and received March 17, 2012. Sheet No 2 of 2.
- B. There has been no lighting proposed for the field, and none is approved. If lighting of any field or play court within Cherry Lawn Park is desired in the future, that shall be subject to a Special Permit application under Section 405 of the Darien Zoning Regulations.
- C. In order to minimize the visual impacts of the various chain link fences being proposed along Brookside Road in the vicinity of Gallagher Field, the Commission hereby requires that a split-rail fence with mesh be installed as the outermost fence nearest Brookside Road, rather than the four foot high chain fence shown on the plans.

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- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- J. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 1, 2013). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements, including the filing of a Special Permit form in the Darien Land Records, shall be accomplished within 60 days of this action or this approval shall become null and void.

Chairman Conze then read the following agenda item:

Discussion and deliberation ONLY on the following item:

Business Site Plan #281/Special Permit, Town of Darien, 35 Leroy Avenue. Proposal to: construct alterations to the former Darien Library building at 35 Leroy Avenue; establish the Darien Board of Education as a new Principal Use Requiring a Special Permit; and to perform related site development activities. *HEARING CLOSED APRIL 24, 2012. DECISION DEADLINE: 6/28/2012.*

Commission members will call Mr. Ginsberg with any questions regarding this proposal.

Chairman Conze then read the following agenda item:

Approval of Minutes

April 10, 2012 General Meeting

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Several minor modifications were discussed and agreed upon. The following motion was made: The Planning & Zoning Commission adopt the minutes as revised. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

April 24, 2012 Public Hearing

Mr. Spain reviewed several minor changes and clarifications. All members agreed. The following motion was made: The Planning & Zoning Commission adopt the minutes as amended. The motion was made by Mr. Spain and seconded by Mr. Cunningham. All voted in favor except Mr. Voigt, who abstained because he had not attended the meeting. The minutes were approved by a vote of 5-0-1.

Any Other Business (Requires two-thirds vote of Commission)

The following motion was made: That the Commission consider 32 Pasture Lane and 144 Five Mile River Road under "Other Business". The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

32 Pasture Lane

Mr. Keating distributed information from the builder indicating that several large trees near the proposed swimming pool area are in danger of falling as noted in the arborist's report. The applicant has requested that the trees be allowed to be removed. At least three new trees will be planted instead. The Commission members reviewed the materials and all members agreed that the trees can be removed and the replacements planted. The Commission noted that since Norway maples are an invasive species, they should NOT be planted.

144 Five Mile River Road

Mr. Ginsberg distributed information from the property owner/developer indicating that they want to install a stairway from the proposed pool and patio area down to the ground. This stairway had not been included in the plans previously submitted and approved by the Commission. The Commission members noted that the stairs were in the direction of the Butler's Island Creek, which is the nearest waterway. They suggested that the applicant re-consider the request and see if there is a better place to get access from the elevated patio down to the ground level. The Commission members did not approve or deny the request, but instead asked the staff to work with the developer to re-examine this situation.

There being no further business, the meeting was adjourned at 10:45 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director