

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg  
RECORDER: Syat  
Channel 79

---

**GENERAL MEETING**

Vice-Chairman Spain called the meeting to order at 8:00 P.M. and read the first agenda item:

**Site Plan Application #280, Special Permit #268, Baywater 745 BPR, LLC, 745 Boston Post Road, DB-1 Zone.**

Request to clarify the parking approval aspect of the Adopted Resolution; review and action upon the proposed combined business and medical office use of the first floor, and an informal discussion regarding possible amendment of Section 585c of the Darien Zoning Regulations.

Mr. Ginsberg explained that Attorney Robert Maslan, who represents Baywater 745 BPR LLC, asked that this item be put on a February Planning & Zoning Commission agenda. Mr. Spain noted that this was to be an informal presentation to get feedback and reaction from the Planning & Zoning Commission. Any change to the Regulations would require a public hearing. Mr. Ginsberg said that further information is being provided on potential first floor tenants. Mr. Spain suggested that Commission members call Mr. Ginsberg with any comments they may have on Mr. Maslan's January 3, 2012 letter.

Mr. Spain then read the next agenda item:

**Coastal Site Plan #261-A, Flood Damage Prevention Application #28-B, Land Filling & Regrading Application #2-B, Foster Kaali-Nagy, 144 Five Mile River Road.**

Request to modify approved plans for the replacement residence, and to modify plans by installing a spa adjacent to the previously approved pool.

Mr. Ginsberg summarized the two letters submitted by Foster Kaali-Nagy dated January 5, 2012. Mr. Ginsberg noted that the proposed spa and the proposed house "bumpout" addition on the south side of the residence were not shown on the plans originally approved by the Commission. Mr. Kaali-Nagy, the property owner, explained that the amount of impervious surface will not change; they will be bumping out the previously approved kitchen to have a view, and this will be in an area which was a previously approved covered terrace. Mr. Voigt asked whether the foundation would be the same and Mr. Kaali-Nagy said that it would be "completely the same".

Mr. Kaali-Nagy mentioned that the approved pool plan includes a four foot high retaining wall with a fence above it which will act as a pool fence around the pool. The spa would be generally in the

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 2 OF 12

same location as the previously approved pool terrace, enclosed by the same fence; and there is no new impervious area proposed. The spa would be at the same elevation as the pool, and there is no new mechanical equipment for the spa. Mr. Ginsberg confirmed that both the spa and the kitchen addition are over previously approved impervious areas. Mr. Hutchison commended Mr. Kaali-Nagy on the conservation easement, which he had granted as part of the previous plan approval. Mr. Voigt asked whether this would be a two-story addition with a bathroom over the proposed kitchen. Mr. Kaali-Nagy confirmed that it would be a two+ story addition. Mr. Ginsberg noted for Commission members that the house will look like it's very close to the water from those in and near the Five Mile River. He said that the previous house was in this general location. Mr. Voigt then made a motion to approve the request from Mr. Kaali-Nagy as presented. That motion was seconded by Mr. Hutchison, and unanimously approved.

At about 8:15 P.M., Mr. Spain then read the next agenda item:

*Discussion and possible decisions regarding:*

**Proposed Amendments to the Darien Zoning Regulations put forth by Christopher & Margaret Stefanoni (COZR #5-2011).** Proposing to establish a new section of the Darien Zoning Regulations entitled, "Affordable Housing Floating Zone". This new section would establish a floating zone which could be automatically applied to any lot in Darien at the option of the property owner. It would allow CGS 8-30g affordable housing developments on any lot in Town as a Principal Use as-of-right. It would establish specific Area and Bulk requirements regarding setbacks, and allow structures to be up to three stories and forty feet in height, with a maximum density of thirty-five (35) units per acre. The proposed new regulations would also allow for legalization of existing "in-law" unit(s). The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. *PUBLIC HEARING CLOSED ON 11/22/2011. DECISION DEADLINE: JANUARY 26, 2012.*

Mr. Spain noted that the Commission members have a draft resolution before them this evening, which includes changes that Mr. Ginsberg had aggregated from several members and staff suggestions into a revised draft resolution. Mr. Spain noted that it is rather lengthy and he would prefer that the Commission review it but not read it verbatim aloud. Mrs. Cameron then made a motion to read some of the resolution aloud but not all of it, and to waive the entire reading of the resolution aloud. That motion was seconded by Mr. Hutchison and unanimously approved.

Mr. Spain noted that the draft resolution is five pages long. Mr. Ginsberg then reviewed the changes shown in the revised draft resolution, including paragraph B, and a phrase added to paragraph E. He noted proposed changes in paragraphs J, M, and N. This included a typographical correction to M2, and a clarification/change to M3.

Mr. Spain said that the revisions in the draft before the Commission this evening did not change the substance of the resolution. He said that Mrs. Stefanoni, as part of this proposal, created an "8-30g – like" opportunity for changing the use on properties, which could be invoked by an applicant / owner, even if a moratorium were in effect. Her proposal to legalize in-law apartments was separate – simply by filing a deed declaring that a unit would be affordable, one could eliminate the illegality, regardless of any health and safety deficiencies. Mr. Spain noted that there are safety, access, parking and other aspects; and the Commission would be prevented from considering all

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 3 OF 12

those factors. Mr. Hutchison added that any sensible proposal to legalize in-law apartments would likely call for a Special Permit review by the Commission with specific criteria within the zoning regulations. Mr. Hutchison then suggested minor changes to Paragraphs N2 and N3. These wording changes were briefly discussed by members.

Mr. Cunningham stated that the first Public Hearing on this matter was in October 25, 2011. He was not on the Planning & Zoning Commission at the time; however, he has now watched the October 25, 2011 DVD of that Public Hearing, and has familiarized himself with this matter. He was on the Commission and in attendance at the November 22, 2011 hearing.

There being no further comments from Commission members on the revised draft resolution, Mrs. Cameron made a motion to adopt the resolution as revised this evening. That motion was seconded by Mr. Voigt and approved by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
January 17, 2012**

Application: Proposed Amendments to the Darien Zoning Regulations (COZR #5-2011)

Name and Address of Property Owners: Christopher & Margaret Stefanoni  
Proposing Regulation Amendments: 149 Nearwater Lane  
Darien, CT 06820

Activity Being Applied For: Proposing to establish a new section of the Darien Zoning Regulations entitled, "Affordable Housing Floating Zone". This new section would establish a floating zone which could be automatically applied to any lot in Darien at the option of the property owner. It would allow CGS 8-30g affordable housing developments on any lot in Town as a Principal Use as-of-right. It would establish specific Area and Bulk requirements regarding setbacks, and allow structures to be up to three stories and forty feet in height, with a maximum density of thirty-five (35) units per acre. The proposed new regulations would also allow for legalization of existing "in-law" unit(s). The proposed amendments did not include an application or proposal for a development project on a specific parcel of land.

Publication of Hearing Notices

Dates: October 14 & 21, 2011

Newspaper: Darien News

Date of Public Hearing: October 25, 2011 continued to November 22, 2011

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

Date of Action: January 17, 2012

Action: DENIED

Scheduled Date of Publication of Action:  
January 27, 2012

Newspaper: Darien News

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

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 4 OF 12

- A. On August 4, 2011, Mr. & Mrs. Stefanoni submitted an application to amend the Darien Zoning Regulations. That application was to establish an “Affordable Housing Floating Zone” which would apply to every property within the Town of Darien at the option of the property owner. The proposal would also allow for existing illegal “in-law” apartments to become legalized if they become deed restricted affordable units.
- B. The application did not include a proposal for a development project on a specific parcel of land.
- C. The existing CGS 8-30g moratorium now in effect in Darien precludes any affordable housing applications from obtaining that statute’s burden-shifting review process during the existing four year moratorium period.
- D. A public hearing was held on this matter on October 25, 2011 and was continued to November 22, 2011.
- E. At the public hearing, Margaret Stefanoni explained the requested amendment to the Zoning Regulations. She said that the floating zone would allow developments of less than 35 units anywhere in Town “as of right”. Developments of more than 35 units would require review by the Planning & Zoning Commission. Other than a reference to Garden Homes, the applicant did not provide any rationale for choosing the arbitrary number of 35 units per acre as the determining standard for the proposed floating zone. The applicant provided no rationale for the Commission staff to utilize for determining which public safety issues should be ignored in order to approve an application “as of right”.
- F. The Southwestern Regional Planning Agency (SWRPA) sent an e-mail dated October 4, 2011. The Darien Fire Marshal sent comments dated October 14, 2011. The Darien Public Works Director sent comments in an e-mail dated October 14, 2011. The Commission hired Michael Galante of FP Clark Associates to review the application. His comments were included in an October 20, 2011 letter.
- G. The applicants submitted a November 17, 2011 memorandum responding to the comments of the Fire Marshal and Town Traffic Consultant. They modified the proposed amendment to include: a provision for Fire Marshal review of plans for proposed developments of less than 35 units; Fire Marshal review and approval of in law apartments prior to certificate of zoning compliance; and a provision that a traffic study may be requested by the Planning and Zoning Director for certain proposed projects.
- H. The State of CT DEP submitted a letter dated November 18, 2011 regarding this application. In that e-mail, DEP notes that any application within the coastal boundary would still need to obtain a coastal site plan review for consistency with the CCMA.
- I. The Planning & Zoning Director and Assistant Planning & Zoning Director submitted a memo for the record in this matter dated November 18, 2011. In that memo, staff indicated that the proper review standard for an application to modify the zoning regulations is found in Section 8-3a(a) of the Connecticut General Statutes, which reads as follows:

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 5 OF 12

***Sec. 8-3a. Findings of consistency of proposed regulations or boundaries with the plan of development. Referral of proposed regulations or boundaries to planning commission. (a) In any municipality which has a combined planning and zoning commission operating under the general statutes or any special act, the commission shall state on the record its findings on consistency of a proposed zoning regulation or boundaries or changes thereof with the plan of development of the municipality.***

- J. In their memo, the Director and Assistant Director specifically noted certain references in Chapters 3, 6, and 9 within the current Darien Town Plan of Conservation & Development of 2006, as amended (the "Town Plan"), and noted that the proposal was not consistent with the Town Plan. The memo also noted other issues/concerns with the establishment of a new Affordable Housing Floating Zone and the automatic legalization of all in-law apartments that would be declared "affordable", regardless of whether the apartments are code compliant.
- K. No evidence or rationale was submitted by the applicant explaining how the proposal is consistent with the Town Plan of Conservation and Development.
- L. The Commission deliberated on this matter at its meeting of January 10, 2012.
- M. During the public hearing and associated deliberations, Commission members noted the following:
  - 1) At the public hearing, it was asked whether any other community in Connecticut has such a far-reaching zone, which would apply to the entire community. The applicant responded that she is not aware of it in any other towns or cities but this is "cutting edge". Nothing like this exists and she doubted it had even been considered.
  - 2) Since the 1970s, the impact of impervious surface on water quality has been studied and findings have shown that as the percentage of impervious surface increases, water quality is degraded. Eliminating a maximum building coverage requirement as proposed by the applicant is likely to increase impervious surfaces such as buildings, patios, parking lots, etc., which would have a degrading impact on water quality, and potentially on storm water flooding as well.
  - 3) Only large developments (35 units or greater) would be subject to a review by the Planning and Zoning Commission. Developments of less than 35 units would only be subject to administrative review as part of a simple Zoning and Building Permit with no public hearing. Thus, there would be no review or action by a Planning and Zoning Commission. Other than reference to Garden Homes, the applicant did not provide rationale on how the number of 35 units was arrived at. The applicant provided no explanation as to why a development with a density of 36 units per acre should be considered large enough to require review, while those with a density of 35 units per acre would not require review. Garden Homes was an 8-30g application approved by the Darien Planning & Zoning Commission on January 5, 2010. That project has been completed and contains 11 affordable units.
  - 4) This proposal is similar to CGS 8-30g, in that it gives property owners increased density as an incentive to create affordable housing. The Commission acknowledges that the State

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 6 OF 12

Legislature specifically passed CGS 8-30g and its associated moratorium system. This proposal exceeds and is inconsistent with CGS 8-30g, since a property owner would, by virtue of the local floating zone regulation, have a right to build affordable housing at a much greater density than normally permitted without the usual review process, thereby superseding that statute's review process, as well as its moratorium provisions and its exemption for industrial-zoned land.

- 5) During the public hearing, Mrs. Stefanoni said that if ten percent of the dwelling units in the community were ever to become affordable units, then this provision of the Regulation could be removed. The Commission notes that this is redundant of the existing statutory language under Section 8-30g, and the proposed regulations do not make any recognition of a moratorium, which is also a very specific aspect of Section 8-30g, which has been approved by the State DECD for the Town of Darien.
- 6) The Garden Homes development was used as a reference by the applicant for formulating the proposed draft, as if that specific approval set the standard for future developments. The Garden Homes project was unique, as are most individual land parcels, in that it involved the reuse of an existing commercial building and parking area, and had very limited sized studio and one-bedroom units (in the range of 400 square feet per unit) pursuant to that owner's very specific request and design. It is not a general standard that the Commission established, as it is just the reuse of a very site specific development which had occurred many years ago, and which does not comply with the current standards for maximum site development, storm drainage management, environmental considerations, open space, and other zoning standards.
- 7) Section 8-30g of the Statutes already empowers any property owner(s)/applicant(s) to come before the Planning & Zoning Commission with an affordable housing project. The proposed Regulation goes beyond that statute in that it would remove the zoning review process which the statute preserves and which is needed to sort through the various types of applications and to determine if public health, safety and other appropriate issues are adequately addressed, such as on and off-street traffic and pedestrian safety, adequacy of setbacks and emergency access, site specific considerations, and recognition of deeded property rights and restrictions.
- 8) Traffic safety issues and concerns are very important aspects that need to be reviewed by the Planning & Zoning Commission on each specific proposal. This is true of all types of development, not just affordable housing. The Commission is obligated to protect the public interest and the proposed amendment would fail to fulfill that requirement.
- 9) Some Commission members believe that some way of regulating the existing illegal in-law apartments and other accessory apartments should be explored. In some cases, the units may not be safe and if they become legalized, they will need to become safety compliant. However, the proposed language to legalize an existing in-law or accessory apartment simply based upon its being declared "affordable" is too vague. Such a step would leave too many important issues unaddressed. There needs to be considerable study and clarification to deal with the variety of issues involved with the possible "legalization" of in-law or

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 7 OF 12

accessory apartments. This is as noted in Chapter 6 of the Town Plan—“Study legalization of illegal apartments in Darien”.

- N. The Darien Planning and Zoning Commission finds that the zoning regulation amendment is not consistent with the Town Plan of Conservation & Development for the following reasons:
1. Chapter 3, Environmental Resources: density would have negative impact on aquifers, water quality, watercourses and watersheds, storm water management, wetlands, flood plains, coastal resources and air quality and, therefore, proposal is inconsistent with Town Plan.
  2. Chapter 6, Housing: density would be inconsistent with Town Plan which encourages specific building coverage and height as well as construction of apartments in critical areas such as the CBD, Noroton Heights and adjacent areas.
  3. Chapter 9, Land Use: encourages higher density development near train stations and commercial districts and within multi-family and commercial zones, rather than to allow high density on less appropriate and/or environmentally sensitive land.
- O. Based on the review of all of the materials and information, the Commission hereby denies the application to amend the Darien Zoning Regulations for the reasons described herein.

At about 8:32 P.M., Mr. Spain then read the next agenda item:

**Flood Damage Prevention Application #304, Land Filling & Regrading Application #268, Kim & Christa Mathew, 68 Buttonwood Lane.** Proposing to fill in where the proposed residence is in the flood hazard area, and compensate by an excavation of equal area and volume in another part of the site; level the back yard; and perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED ON 1/10/2012.*

Mr. Hutchison made a motion to waive the reading of the draft resolution aloud. That motion was seconded by Mr. Voigt and unanimously approved. Mr. Voigt pointed out a typographical error on page two of the draft resolution. He also noted that it was good to see that the applicant proposed a rain garden in this location to address storm water quality. Mr. Hutchison believed that both the property owner and the Town will benefit from the establishment of the rain garden. Mr. Spain noted that it has been the Commission’s overall expressed preference to create rain gardens in lieu of underground storage such as Cultec units. He said that although it is not a regulation, it is the Commission’s overall preference. Mrs. Cameron added that rain gardens are cited as a Best Management Practice in the 2004 Connecticut State DEP Storm Water Quality Manual.

Mrs. Cameron made a motion to adopt the resolution as amended. That motion was seconded by Mr. Hutchison and approve by a vote of 5-0. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
January 17, 2012**

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 8 OF 12

Application Number: Flood Damage Prevention Application #304  
Land Filling & Regrading Application #268

Street Address: 68 Buttonwood Lane  
Assessor's Map #10 Lot #50

Name and Address of Property Owner: Kim & Christa Mathew  
68 Buttonwood Lane  
Darien, CT 06820

Name and Address of and Applicant: Lance E. Zimmerman, AIA  
Applicant's Representative: Zimmerman Architecture  
14 Cliffview Drive  
Norwalk, CT 06850

Activity Being Applied For: Proposing to fill in where the proposed residence is in the flood hazard area, and compensate by an excavation of equal area and volume in another part of the site; level the back yard; and perform related site development activities within a regulated area.

Property Location: The subject property is located on the south side of Buttonwood Lane, approximately 550 feet east of its intersection with Mansfield Avenue

Zone: R-1

Date of Public Hearing: November 22, 2011 continued to January 10, 2012

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

Publication of Hearing Notices

Dates: November 11 & 18, 2011

Newspaper: Darien News

Date of Action: January 17, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

January 27, 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, 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 plan, and the statements of the applicant and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 9 OF 12

- 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 fill in where the proposed residence is in the flood hazard area, and compensate by an excavation of equal area and volume in another part of the site; level the back yard; and perform related site development activities within a regulated area. The existing residence will be razed, and a new one constructed along with a reconfigured driveway from Buttonwood Lane. The proposed residence will be served by public water and sewer. A portion of this new residence will be within the flood zone.
2. Also as part of this application, some filling is proposed within the flood zone. This will reduce the flood storage capacity on the property. That will be compensated by an excavation of equal or greater area and volume in another part of the property. Other regrading will occur in the back yard of the property to create a more level area.
3. The Darien Environmental Protection Commission (EPC) approved a related request to amend the Town's Wetlands Map for this property on November 2, 2011 as part of EPC #36-2011. As part of this application, there is no work within an EPC-regulated area.
4. At the November 2011 public hearing, the Commission asked the applicant to prepare a drainage plan which would include an above-ground rain garden instead of underground infiltrators. That drainage plan was presented at the January 10, 2012 public hearing. That revised plan showed the location of the proposed rain garden, as well as the proposed plantings. None of the proposed work is within the upland review area adjacent to the wetlands and thus the revised plan does not require a permit from the EPC.
5. The Commission notes the need for the applicants to file in the Darien Land Records a document outlining the protocol for the long term maintenance of the proposed and installed drainage system. 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.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
8. 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.

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 10 OF 12

9. 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 Flood Damage Prevention Application #304 and Land Filling & Regrading Application #268 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and related activity shall be in accordance with the following plan, submitted to and reviewed by the Commission:
- Plan prepared for Kim and Crista Mathew, Site Development Plan 68 Buttonwood Lane, by McChord Engineering Associates, Inc., last revised 12-20-11, Drawing SE-1.  
(This plan shows the proposed rain garden, as well as the rain garden plant list).
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the new foundation complies with the applicable flood damage prevention requirements
- D. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plan and as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Once the foundation of the structure has been installed, the applicant shall submit an ‘as built’ survey to verify compliance with the setback requirements and minimum floor elevation requirements of the regulations and this approval. Work on the house above the new foundation cannot proceed until the as-built survey has been submitted and determined to be to the satisfaction of the Zoning Enforcement Officer.
- F. Prior to the issuance of a Zoning and Building Permit for the proposed work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 68 Buttonwood Lane 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 by the owner as well, within the next 60 days of this approval and prior to the start of any filling or regrading work.

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 11 OF 12

- G. A final “as-built” survey is hereby required to certify that all regrading, construction, drainage system, rain garden plantings and site improvements near and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that all of the work has been properly completed in accordance with the approved plans, including the installation of the rain garden and the lowering of the grade to create the compensatory flood area in the front yard.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, a permit from DPW for the proposed new curb cut on Buttonwood Lane (a Street Opening Permit).
- J. This permit shall be subject to the provisions of Sections 829f and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (January 17, 2013). This may be extended as per Sections 829f and 858.

All provisions and details of the plan 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 construction or filling or regrading work, or this approval shall become null and void.

**Update on various approved projects and projects underway.**

Mr. Ginsberg then updated the Commission on various approved projects and projects underway. The Commission discussed the January 2, 2012 drainage certification from engineer Joelvito Villaluz regarding the Palomo, 104 Rose Lane property. They specifically noted that the certification showed how underground Cultec units are installed, and the Commission emphasized the importance of maintenance once any underground (or even above ground) drainage is installed.

Mr. Ginsberg also noted that the Noroton Yacht Club recently received approval from the Army Corps of Engineers to repair some rip-rap damage during the recent storms. All that work is outside the Commission’s jurisdiction and does not need to come before the Commission. The Army Corps’ approval was distributed to Commission members for their review.

Mr. Ginsberg also noted that earlier today Mr. Keating approved the first unit at Cedar Lane/Kensett Lane (the former Procaccini property). Discussion ensued about the possibility of a future Planning & Zoning Commission application covering a house relocation from the Cedar Lane/Kensett Lane property onto Wakemore Street.

DARIEN PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JANUARY 17, 2012  
PAGE 12 OF 12

Mr. Ginsberg noted that two new restaurants should be opening soon – Darien Social in the former Crystal Gardens space at 934 Boston Post Road, and Anthony’s Coal Fired Pizza in the space formerly occupied by Centro’s and Harper’s at 319 Boston Post Road.

Mr. Ginsberg mentioned that work on the Maplewood of Darien project at 599 Boston Post Road (formerly Mediplex) continues on and they hope to open later this year.

If the weather continues to hold, it is likely that the Allen O’Neill redevelopment project will seek their first Building Permits in February or March.

**Approval of Minutes**

*January 10, 2012            General Meeting/Public Hearing*

Mr. Spain noted that revised draft minutes had been provided to the Commission earlier this evening. Mr. Voigt had a comment on page 2. A brief discussion ensued regarding the placement of emergency generators and the proper standards. Mr. Ginsberg noted that even as recently as earlier today, two property owners had come in to get approvals for generators – so the demand for such units has not abated. Mr. Voigt made a motion to approve the minutes as amended this evening. That motion was seconded by Mrs. Cameron and approved by a vote of 5-0.

There being no further business, the following motion was made: That the meeting be adjourned. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved. The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

*01.17.2012.min*