

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
APRIL 10, 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

Chairman Conze called the meeting to order at 8:00 P.M. and read the following agenda item.

GENERAL MEETING

Discussion, deliberation and possible decision on the following:

Coastal Site Plan Review #224-A, Flood Damage Prevention Application #247-A, Lewis Nash Family, Inc., c/o James & Marion Friend, 1 Nash Island. Proposing to replace/reconstruct a gazebo in the same position and configuration as the original gazebo recently destroyed by a hurricane, and to perform related site development activities within regulated areas.

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft Resolution aloud because all members have had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Commission members discussed the draft Resolution and noted that it should be modified to make sure that equipment accessing the construction site would not have any negative impacts on the coastal resources that surround the project. This would be similar to the condition usually imposed by the State of Connecticut Department of Energy and Environmental Protection (DEEP). The Resolution was modified accordingly. The following motion was made: That the Planning & Zoning Commission adopt the following, revised Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mrs. Cameron, seconded by Mr. Cunningham and unanimously approved. The Adopted Resolution is as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 10, 2012**

Application Number: Coastal Site Plan Review #224-A
Flood Damage Prevention Application #247-A

Street Address: 1 Nash Island
Assessor's Map #55 Lot #24

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Name and Address of Applicant: The Lewis Nash Family, Inc.
And Property Owner: c/o James and Marion Friend
1 Nash Island
Darien, CT 06820

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

Activity Being Applied For: Proposing to replace/reconstruct a gazebo in the same position and configuration as the original gazebo recently destroyed by a hurricane, and to perform related site development activities within regulated areas.

Property Location: The subject property is on the north side of Nash Island, approximately 1,000 feet southeast of its intersection with Nearwater Lane.

Zone: R-1 Zone

Date of Public Hearing: March 27, 2012

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

Publication of Hearing Notices

Dates: March 16 & 23, 2012

Newspaper: Darien News

Date of Action: April 10, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 20, 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, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted 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:

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1. The application is to replace/reconstruct a gazebo in the same position and configuration as the original gazebo recently destroyed by a hurricane, and to perform related site development activities within regulated areas. Letters of support for this project were received from the Noroton Yacht Club and the Darien Boat Club.
2. On March 14, 2012, the Zoning Board of Appeals granted a variance for this project (Calendar #7-2012). That approval is hereby incorporated by reference.
3. At the public hearing on this matter, it was noted that a final approval has not yet been received from the State of CT DEEP. A March 27, 2012 e-mail from DEEP noted that they were satisfied with the Commission closing the public hearing on March 27, 2012.
4. In accordance with the submitted information, the proposed activities will have no adverse impacts on flooding on adjacent properties.
5. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and polices of the Coastal Area Management Program.
6. 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.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #224-A and Flood Damage Prevention Application #247-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and site activity shall be in accordance with the following plans as submitted to the Commission:
 - Improvement Location Survey of a portion of #1 Nash Island prepared for The Lewis H. Nash Family, Inc. by William W. Seymour & Associates, scale 1"=20', dated January 16, 2012.
 - Two 11x17" architectural plans entitled "Gazebo, Nash Island," prepared by Wood Architects, LLC, numbered A1 and A2 and noted "Review Set Not For Construction 10/11/11."
- B. In order to protect against unintended side effects, the applicant's construction drawings and sequencing schedule, along with equipment that they plan to use, shall be submitted for review and approval by the Planning & Zoning Director.
- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification from a licensed architect and/or engineer shall be submitted that verifies that the final design complies with the applicable Flood Damage Prevention requirements. Once the gazebo is built, and prior to its use or the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer or

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architect that all aspects of the construction, have been completed in compliance with the approved plans, and per the Town of Darien Flood Damage Prevention Regulations.

- D. 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 would include any approval received from the State of Connecticut DEEP Office of Long Island Sound Program (OLISP).
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to implementation of the approved plan within one year of this action (April 10, 2013). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans 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 Conze read the following agenda item:

Coastal Site Plan Review #50-C, Flood Damage Prevention Application #39-C, Land Filling & Regrading Application #271, Steven K. & Lisa B. Eppley, 6 Contentment Island Road.

Request to install new septic system prior to new replacement residence.

Commission members reviewed the letter requesting an amendment of the approval with respect the timing for the installation of the septic system. The Commission had required that the septic system be installed near the end of the project so that the area of the septic system would not be compacted and thereby compromised in its effectiveness. There also was concern in this location, close to the Sound, that a damaged system could leak effluent into the sensitive coastal waters. Mr. Eppley's request is to install the septic system early in the construction process subject to the inspections by the Project Engineer and the Town's health official and then to fence off the area to make sure that heavy construction equipment does not unnecessarily travel over the septic system. He has submitted a letter of support from his Project Engineer.

Commission members asked Mr. Ginsberg if this was acceptable to the Health Department. Mr. Ginsberg said that he spoke with Barry Bogel of the Health Department who has expressed his acceptance of this modification.

Commission members said that there should be some sort of function and performance test and a written certification by an engineer prior to the actual usage of the septic system.

The following motion was made: That the Planning & Zoning Commission approve the requested modification regarding the timing of the installation of the septic system subject to the condition

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that, prior to the actual usage of the septic system, the applicants must subject written certification from the Project Engineer to the satisfaction of the Health Department that the septic system has been properly installed and will properly function and that, if there are any problems or difficulties with the actual usage of the septic system that it will be corrected immediately. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit Application #145-A/ Site Plan, Abello's, 72 Tokeneke Road.

Request to install two table and eight chairs for dining—indoors or outdoors depending on the season.

The new operators of the delicatessen have requested permission to have up to eight seats for customers to use on the site. The original approvals from the Zoning Board of Appeals and the Planning & Zoning Commission specify that there will be no seating allowed. This was due, in part, to the limited onsite parking. Mr. Ginsberg said that the layout of the interior seating for customers has been reviewed and accepted by the Health Department and the Fire Marshal. There would be a maximum of eight seats, they would be within the building during the winter seats; and, when weather permits or to encourage patrons to sit outside, the eight seats would be moved outside.

The plan to install seats outside the building was discussed at length. In accordance with the Police Department comments regarding the proposed outside seating, there is a safety concern of having patrons sit on the sidewalk to the west (left) of the building because parking spaces in that area would have the front end of the vehicles very close to the patron seating area. Any mistake by the driver (failing to properly put the car into park or hitting the gas instead of the brake) could result in injuries to patrons sitting in the area. No seating is proposed on the walkway adjacent to the front of the building.

Brian Abel of Abello's said that they could modify Parking Spaces #6 and #7 to install a wheel stop to prevent vehicles from getting too close to the customer eating area. The wheel stop would effectively move the parking space farther away from the sidewalk. This would be easy to accomplish because there is more than adequate backup area for Parking Spaces #6 and #7 and moving the spaces back would not affect the backup area for any other parking spaces. The plan would be to have four small tables, each with two seats, located on the sidewalk adjacent to Parking Spaces #3, #4, #5, #6 and #7. The Commission members discussed the possibility of having steel or concrete bollards at the end of each of those parking spaces to prevent a vehicle from accidentally hitting the tables and chairs and patrons in the outside dining area.

After further discussion the following motion was made: That the Planning & Zoning Commission authorizes the installation of up to eight total customer seats on the site. The inside seats can be installed immediately and in compliance with the submitted plan. Any outside seats will need to be properly protected from the parking area by the installation of bollards at the end of each parking space in the vicinity of the dining area. The Director of Planning will work with the Police Department and Applicant to make sure that the safety precautions are implemented prior to the establishment of outdoor seats. In any event, the total number of seats, inside and outside, shall not

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exceed eight at any given time. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Site Plan Application #269-A/Special Permit Application #265, Land Filling & Regrading Application #225-A, Post Road Eleven, LLC, 1292 Boston Post Road.

Request to install HVAC units.

Mr. Ginsberg explained that the original development of this property had anticipated use of a geothermal heating and air conditioning system that would not have required the standard air conditioning condensers. The applicant now wishes to use air conditioning condensers. Because the site is so tight, there are few locations to place those condensers. Mr. Ginsberg said that he has worked with the applicant and the Building Official and the proposed location of the condensers would be adjacent to the handicap parking space (on a portion of the striped area next to the handicap parking space). This is shown on the submitted site plan. This location will comply with the Zoning Regulations because the units will be at least four feet from the property lines and will not be in the approved, required buffer area, which is to the rear of the building and parking spaces. Commission's members reviewed the plan and noted that the proposed location will not adversely impact the turnaround area within this small parking lot.

The following motion was made: That the Planning & Zoning Commission approve the modifications to the Site Plan and Special Permit to allow the two air conditioning condensers in the southeast portion of the site and adjacent to the handicap parking space in accordance with the submitted plan. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Staff update regarding ongoing development projects, and upcoming Commission meeting schedule.

Rain Gardens – David Keating distributed to the Planning & Zoning Commission a draft document that would become a handout to property owners and contractors wishing to install rain gardens to manage stormwater runoff. He explained that the draft is still being worked on and he would appreciate comments from the Commission members so that the document can be used by property owners and contractors to establish and maintain rain gardens.

Mr. Ginsberg said that the housing project at 333 West Avenue is making great progress. Foundations for all eight of the houses have been installed and two of the eight houses are virtually complete. Each house is approximately 2,500 square feet of living space. All of the on-site drainage work has been completed. None of the housing units have been sold yet and the developer will build the remaining units as sales occur. It was noted that the drainage improvements have addressed a problem that the neighbors have been very concerned about.

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Mr. Ginsberg said that the Allen O'Neill housing project has started. Commission members reviewed the Quarterly Report that had been submitted. They said they were very interested in getting continuing Quarterly Reports. It is expected that some of the old buildings on the site will be demolished this month and construction of the new units will begin shortly thereafter. One of the difficulties is the logistics of moving the existing tenants out of existing housing units so that those structures can be demolished to make way for the new units.

Mr. Ginsberg explained that the Kensett project, located on the former Procaccini property to the east of Hoyt Street and north of Wakemore Street, is proceeding. The Club House has been framed in and two of the units are being built at this time. It is expected that the common building and two model units will be ready for opening at Labor Day.

Approval of Minutes

March 27, 2012 Public Hearing/General Meeting

Mr. Spain had several corrections and clarifications that were discussed and approved. The following motion was made: That the Planning & Zoning Commission approve the minutes as corrected. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

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

The following motion was made: That the Planning & Zoning Commission discuss Michael Joseph Catering under Other Business. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

Mr. Ginsberg explained that the operators of Michael Joseph Catering had received approval to have inside seating only. They have had outside tables and chairs for patrons to enjoy for the past few seasons, even though outside seating was never approved. They have submitted a request to have the Planning & Zoning Commission formally approve the outside seating.

Justin Viesta of Michael Joseph Catering explained that they currently have ten seats within the building and they are proposing to have another nine seats outside the building. He said that outside, on the grassy lawn area, they have had three tables, each with three chairs. Commission members noted that if the total number of seats exceeds 16, then additional onsite parking will be required. No additional onsite parking is available and thus the total number of seats, inside and outside, cannot exceed 16.

Commission members noted that the location of the outside tables and chairs is approximately 10 to 12 feet from the front end of some of the parking spaces. In order to create a safer condition, they must have some sort of barrier between the parking spaces and the dining area. It was suggested that they use some landscaping type planters that will provide safety. The Director of Planning will work with the Applicant and the Police Department to create a safe area for the patrons.

The following motion was made: That the Planning & Zoning Commission amend the Special Permit and Site Plan for Michael Joseph Catering to allow up to three tables and nine chairs outside

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the building subject to creation of a sufficient and reasonable safety barrier for the protection of the patrons and that the total number of customer seats and dining spaces (inside and outside) shall not exceed 16. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved. The meeting was adjourned at 8:50 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director

04.10.2012min