

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
OCTOBER 2, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Hutchison, Cameron, Cunningham, Voigt and Ex-Officio: Stevenson

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

CHANNEL 79

Chairman Conze opened the meeting at 8:00 P.M., and read the first agenda item:

GENERAL MEETING

Presentation/discussion with Southwestern Regional Planning Agency (SWRPA).

Dr. Floyd Lapp, Executive Director of SWRPA, will meet with P&Z to discuss SWRPA's roles/responsibilities, as well as some current activities. (scheduled for 35+/- minutes)

Dr. Floyd Lapp, Executive Director of SWRPA, explained that there are eight member communities within the South Western Regional Planning Agency. It consists of a Regional Planning Organization made up of citizen representatives and a Metropolitan Planning Organization made up of First Selectmen and Mayors. He said that SWRPA has many roles, including processing of referrals from municipalities of applications that might have inter-municipal index. Another function is a legislative review committee that comments on legislation at the state level. One of the major projects concerning Darien has been work on the Five Mile River to enhance adjacent functioning wetlands and make the water cleaner. They are also working with the State and Army Corps of Engineers regarding flooding within all the communities.

Other work by SWRPA involves traffic and transportation planning and there is an on-going study regarding Route 1 and how it flows through Darien. The next meeting regarding that will be in the middle of October. Transportation planning includes vehicle traffic, public transportation, pedestrians and bicycles. Many of these projects cannot be funded at the moment, but getting the project in the works will be important to obtain future state funding. Another function of SWRPA is an update of the regional Plan of Conservation and Development that occurs every ten years. He recommended that interested parties go to www.swrpa.org for more information.

Chairman Conze commented that it is good to hear the status of SWRPA and he suggested that it might be appropriate to have an annual meeting where the Commission is updated on such issues. Mr. Conze said that having a coordinated program of aerial photographs of all the communities would be worthwhile, and that stormwater management is an important project for all of the municipalities, including Darien. Mr. Hutchison agreed that a coordinated series of flyovers with photographs and geographic information system products would be helpful.

When asked about the previous discussions from years ago about reorganizing this regional planning agency into a Council of Government (COG), Mr. Lapp indicated that Council of

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Government is where the mayors and selectmen would have decision making authority and the council of elected officials is where those elected officials would not have any jurisdiction over planning components. The options were previously discussed but there was not enough interest within the member communities to change from the Regional Planning Agency. In response to other questions, Mr. Lapp indicated that transportation funding from the State is stagnant but still exists at this time. He said other grants from the State have been drastically reduced. Commission members thanked Mr. Lapp for his time and invited him to return in the future.

At about 8:25 p.m., Ex-Officio member Stevenson left the meeting. Chairman Conze then read the following agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #276, Flood Damage Prevention Application #308, Bryan & Sara Murphy, 1 Baywater Drive. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas. The subject property is located on the northeast corner of the intersection formed by Baywater Drive and Nearwater Lane, and is shown on Assessor's Map #55 as Lot #12 & #13, in the R-NBD Zone. *PUBLIC HEARING OPENED ON 9/18/2012.*

Mark Lebow of William W. Seymour & Associates Land Surveyors represented his clients that include the property owners and the contracted builders. He explained that the Public Hearing is a continuation that was started two weeks ago. The plan is to demolish the 1950s residence that is currently too low because it is in the flood zone, and it is too close to the property lines to comply with the current Zoning Regulations. He said the replacement house has been designed to totally comply with all regulations and requirements. It will be larger than the existing house, and will also have a swimming pool on the property. It will be constructed on piles and elevated above the expected flood level. The current Flood Insurance Rate Map (FIRM) indicates that the expected flood level in the area is 11 feet. In 2013 it is expected that the Town will adopt draft/revised flood maps with an expected flood level of 13. The Town requires that the house be located at least one foot above the expected flood level; therefore, to comply with the draft amendment that is expected to be adopted in 2013, the new house would have to have the first floor at Elevation 14. The neighbors are very concerned that elevating the house so much above the existing ground level would be inappropriate. The preference of the property owner is to comply with the current flood elevation (expected flood elevation of 11) with a floor elevation of 12. Since the building height is measured on the existing average grade, the building height can be reduced by one foot (compared to the previously submitted plans) and the owner can have a higher ceiling within the second floor. Mr. Lebow submitted revised architectural plans and revised engineering report regarding the modification. He said that this does not change the site work or grading other than the number of steps leading from the driveway and back yard into the proposed house.

Director of Planning Jeremy Ginsberg said that he had referred the application material to the Connecticut Department of Energy and Environmental Protection (CT DEEP). DEEP has indicated that they will not be commenting on the application or the modifications. Mr. Ginsberg said that the Department of Public Works has reviewed the plans and noted that a sewer connection permit will be necessary.

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In response to questions, Mr. Lebow said that the originally submitted plans had the first floor designed at Elevation 14. They will be reducing that to Elevation 12. They will be adding one foot to the interior height of the second floor space and will be lowering the ridge line of the house by one foot. Mr. Ginsberg said that the only requirement that the Commission can impose at this time is to comply with the current Flood Damage Prevention Regulations. Although the draft maps have been submitted by FEMA to the Town for review, the Town cannot impose those draft requirements on any applicants. Although the Town does suggest to applicants that it would be to their benefit to comply with the draft maps, it cannot be required.

Mr. Ginsberg said that the coastal area management impacts are limited to the fact that the site is across the street from the beach. He said that one of the questions that has been raised would be the elevation of the air conditioner units and pool equipment. The revised plans indicated that equipment will be on a platform that will be at Elevation 11 to comply with the current requirements. Mr. Lebow said that the platform housing the equipment can be surrounded by plants or fencing or screening. He said that the garage elevation was proposed at Elevation 9.5 and will remain constant. The garage floor does not need to comply with the requirement to be at or above the expected flood level. Mr. Lebow said that the existing building is currently 11 feet from the Winters/Holcomb property line. The new building will be approximately 29 feet from the property line and the equipment will be located on the north side of the proposed house.

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

At about 8:40 p.m., Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #252-A, Land Filling & Regrading Application #278, Hans Mende (253 Long Neck Point Road, LLC), 253 Long Neck Point Road. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area. The subject property is located at the east side of the terminus of Long Neck Point Road, and is shown on Assessor's Map #61 as Lot #13-4, in the R-1 Zone. *PUBLIC HEARING OPENED ON 9/18/2012. DEADLINE TO CLOSE HEARING: 10/23/2012, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Attorney Wilder Gleason represented the applicant and submitted maps showing the existing site conditions and a different map showing revised site development plan. He said that copies of these drawing have previously been provided to counsel representing the neighboring property owner. Attorney Gleason said the existing house on the property will be demolished and a replacement house and swimming pool will be built. He said that as part of the subdivision of this property, it created a series of unique setback and visual restrictions that allow the proposed house on this property to be a maximum of 20 feet high, above the existing grade. He said that the current house does exceed that limitation but he existing house will be demolished and the replacement house will comply with the 20 foot height restriction. He said that an open space parcel is also located on the perimeter of the site, adjacent to Long Island Sound. At the edge of the property, adjacent to Long Island Sounds, there is a V Flood Zone. The current flood insurance rate maps indicate that the rest of the property is not in the flood hazard zone. Drafts of a possible revision to the flood insurance rate maps would include the

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house location to be within the flood zone, but those flood maps are not in effect at this time. Attorney Gleason said that the proposed house will comply with the special setback requirements of the subdivision and the 100 foot setback requirement of the Coastal Area Management Program. The three bedroom proposed house has been designed to have a second floor. There would also be a swimming pool on the south side of the house. There would be an outside sitting area on the roof of the proposed house. Attorney Gleason said that there will be no change of grade within 15 feet of any property line. He said that there will be planters located on the roof of part of the structure and that chimneys are allowed to exceed the 20 foot height limit restriction. Attorney Gleason said that there will be some construction excavation required within the 100 foot Coastal Area Management area. He referred to the engineering report indicating that there would be no adverse impacts on the neighboring property owners with respect to drainage. He also referred to the environmental report submitted by John Roberge indicating that there would be no adverse impacts to Coastal Area Management resources or flooding conditions.

Attorney Gleason said that the applicant is willing to work with the neighbor to trim some of the existing trees on the property in order to enhance the neighbor's view of Long Island Sound even though trimming is not required by the Regulations or the easement. He said that the neighbor has no view easement other than the 20 foot height restriction. He said that any tree pruning within the open space parcel would probably require approval from the homeowners association and he and his client will investigate that possibility.

Attorney Gleason referred to the engineering report submitted by professional engineer John Martucci regarding the stormwater management. Stormwater will be managed with respect to water quality but not holding back or detaining stormwater with respect to water quantity. He said that the existing septic system will be abandoned and the proposed house will be connected to sanitary sewers.

Attorney Gleason said that the property and house located to the west is also owned by Mr. Mende and that in the future, he will be submitting a separate re-development application for the lot to the west.

Attorney Vincent Freccia, represented the neighboring property owner and said that he had reviewed the file with an engineer. He referred to the engineer's letter of September 27, 2012 that lists 9 deficiencies of the application. He said that the recent submitted materials do not address all of the items. He submitted and read aloud a letter objecting to the application and noting that they still need to submit building elevations and site grading plans, drainage details are missing, the swimming pool coping and equipment are not shown and the landscaping plan is not shown. Attorney Gleason said they are not planning on doing any landscaping changes. Mr. Hutchison said that the soil samples are not critical with respect to the proposed development activity. Attorney Gleason said that he will work with his client to provide the additional requested information.

The Planning & Zoning Commission decided to continue the Public Hearing regarding this matter on Tuesday, October 23, 2012 at 8 P.M. in Room 206 of Darien Town Hall.

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The General Meeting was opened by Chairman Conze. He then read the following agenda item:

GENERAL MEETING

Site Plan Application #268/Special Permit, The Heights at Darien (former Allen O'Neill), Allen O'Neill Drive.

Request to modify previously approved community building.

Arthur Anderson explained that the requested modification is to add approximately 1100 square feet to the community building. The community building is being made larger to accommodate additional services and facilities for the residents. Office space for the Darien Housing Authority and an on-site management firm will be provided. A laundry room, exercise room and multi-purpose rooms are now shown on the plans. The computer room, which is required by the Connecticut Housing Finance Authority, would be expanded. He noted that the Planning & Zoning Commission had previously approved a leasing and management office at this site and that one of the modifications would be to add the offices of the Darien Housing Authority, which will have multiple responsibilities for the development.

Mr. Spain asked about changes in the open space that might result from the proposed modification. Mr. Anderson said that adding green space on each side of the building to the formal open space as required by the Commission. Mr. Ginsberg said that the proposed outdoor patio to the west of the building would be within the previously approved open space. In order to have the required open space area, the applicant proposes to add some of the green or grass area adjacent to the community building would become part of the formal open space area. The net result is a reduction of the amount of green space by adding to the building and the patio.

Mr. Anderson said expanding the exercise room and laundry room is an important aspect to the residents. He said that each unit will have laundry hook ups within the individual units but actual washer and dryers will not be provided by the Housing Authority. The laundry room in the common building is therefore essential. He said that the expansion would also allow the consolidation of the Darien Housing Authority offices to the Allen O'Neill site, now known as The Heights of Darien. John McClutchy said that computers are an intricate part of the community facilities. This will allow students within the development to do their after school work and allow residents to job hunt and prepare for interviews. He said that other items within the building were on the previously approved plan.

Mr. Conze said that given the overall scale of the project, this change to the community building seems to be minor but does raise some questions. Mr. Ginsberg said that moving the Darien Housing Authority offices to the site would require a separate amendment to the Special Permit. Mr. Anderson said that they would apply for whatever permits are needed, but they need to know now whether they can construct the larger community building. Mr. Cunningham said that although the additions might be relatively small compared to the overall size of the project, this might be a tipping point where there is another change or intensification of the site. He also noted that this modification appears to be a thorn to many of the neighbors. Mr. McClutchy said that as the developer they are willing to spend the extra money for better quality of life for the residents within the development. He said that this will create additional indoor space that will not bother any of the neighbors and will allow for a greater interaction among the residents within the

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development. Mr. Conze said that luckily the community building is located on the interior portion of the site rather than the perimeter and it seems to add value to the overall project. Mr. Hutchison said that one of the issues that has raised by the neighbors has been the installation of the fence parallel to the easterly boundary line. He asked if the developer and Housing Authority had resolved that issue with the neighbors. Mr. McClutchy said that making a better quality of life for the residents within the development which makes a better asset for the community.

The following motion was made by Mr. Spain: That the Planning & Zoning Commission conclude that no Public Hearing is needed for the proposed modification and that there are no greater impacts on the neighboring property owners and that the modifications be approved as submitted. There was no second to the motion.

Commission members discussed whether a public hearing would be necessary. Mr. Cunningham felt that a public hearing would be appropriate to have public input regarding any changes to the project. Mr. Conze said that if a public hearing is held, it will not be a re-hearing of the overall project, discussion would be limited to only to the requested modifications. Mr. Spain noted that he has reviewed the emails from the neighbors and they have concerns about various aspects of the project but they did not seem to be any particular concern about the requested modifications to the community building. Mrs. Cameron said that this is an 1100 square foot increase in the impervious area and that this is not little or minor with respect to drainage. She said nothing has been submitted about how the drainage from this new impervious area would be managed. Mr. Spain noted that the original drainage design probably is more than adequate to handle this size addition. He said that the engineer for the project could probably verify that the previously approved drainage system will accommodate the proposed addition. He said that if a public hearing was conducted by the Commission, it would only be about the proposed modification to the building and the open space, not other aspects of the project.

The Commission agreed to continue discussion on this request at the October 16, 2012 meeting.

At about 9:55 p.m., Chairman Conze then read the following agenda item:

Subdivision Application #471-B, Welsh, 1 Musket Lane.

Request to modify/clarify previously approved setbacks for the subject property.

Attorney Robert Maslan represented the property owner and reviewed the letter and background of the subdivision map with the Commission. He said that when this extra-large setback requirement was included as part of the subdivision approval, it might have made sense but there no longer seems to be any justification for this unusual setback requirement. He said that his review of the record is not clear as to whether this setback requirement was imposed for visual purposes or for septic system requirements. Attorney Maslan said that there is a private deed restriction regarding other matters but that deed restriction has expired. He said that the 1972 minutes said the subdivision referred to the septic system plans but the area is now served by sanitary sewers. He said that other extended setback requirements are shown in the plans but they are due to the width of the individual parcels or the fact that the parcels are rear lots. He said that all of those special setback requirements are still applicable but the subject property is not a rear lot and does comply with the lot width requirement. He said there is no explanation for why this 90 foot setback is imposed from the southerly property line. Mr. Conze said that the Commission would be willing to

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consider this matter, but it would be appropriate to have a revised map prepared for the meeting of October 16, 2012 and ask the staff to prepare a draft resolution that would modify the previous subdivision approval.

At about 10:20 p.m., Chairman Conze then read the following agenda item:

Amendment of Subdivision Application #602, Nastro/Blair, 360, 362, 366 Brookside Road.
Proposed modification of previously approved subdivision, by eliminating a shared driveway.

Attorney Amy Zabetakis represented the property owners and said that the land involved is a subdivision of what was formerly the Lowman property at the northeast portion of Brookside Road. At the time of the original approval, two rear lots shared a common driveway that is located on the southerly portion of the site. The property owners now wish to amend that subdivision approval so that a separate access strip from Brookside Road will now be created for each parcel. This will involve adjusting the property lines. She noted that the house that was located on the front (356 Brookside Road) has been demolished and now that property is vacant. A new driveway will be created on the northerly portion of that vacant property to lead from Brookside Road to the rear lot. A stormwater management design has been prepared by McChord Engineering to accommodate the additional runoff from the new driveway. She said that a few existing trees need to be removed from within the existing property to accommodate the new driveway.

Commission members reviewed the submitted drawings and plans. The following motion was made: That the Planning & Zoning Commission authorize the amendment of the subdivision approval to allow the revisions to the driveway and access to the rear lots in accordance with the submitted drawings and plans. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit Application #266 and Business Site Plan #279, Maplewood, 599 Boston Post Road.

Request to modify plans to: relocate transformer; relocate retaining wall; rotate previously approved sign; modify plantings; modify pathways in rear and eliminate a portion of the wall in the rear.

Attorney Amy Zabetakis represented the applicants and explained that they are nearing completion of the project and are getting ready to occupy the building. They currently have applications pending with the Zoning Board of Appeals and Architectural Review Board for signage to clearly and safely identify the property. They are requesting several minor modifications of the Planning & Zoning Commission's previous approval. Chris Cocotas explained that several modifications were made to the retaining wall in the garden area and the height of the wall leading from the Boston Post Road driveway down into the basement level parking. In response to questions, he said that the old support beam in the driveway has been left in place due to structural steel problems with replacing that old beam.

The Commission members reviewed the requested modifications and changes. The following motion was made: That the Planning & Zoning Commission approve the modifications and

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changes as submitted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

Deliberations and possible decisions on the following closed public hearing items:

Special Permit Application #60-K, Flood Damage Prevention Application #208-A, Land Filling & Regrading Application #121-A, Country Club of Darien, 300 Mansfield Avenue. Proposing to replace failing existing spillway structure on Goodwives River; replace existing stone wall with realignment/relocation; replace two existing golf cart bridges; pond expansion and wetland plantings; rebuild 12th green; and perform related site development activities within a regulated area.

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the requested modifications to the site. The motion was made by Mr. Hutchison and seconded by Mr. Spain. Voting in favor were Mr. Hutchison, Mr. Spain, Mr. Conze and Mrs. Cameron. Mr. Voigt and Mr. Cunningham abstained. The motion passed by a vote of 4-0-2.

The adopted resolution reads as follows:

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ADOPTED RESOLUTION
October 2, 2012**

Application Number: Special Permit Application #60-K
Flood Damage Prevention Application #208-A
Land Filling & Regrading Application #121-A

Assessor's Map #5 Lot #40

Name and Address of Property Owner: Country Club of Darien, Inc.
And Applicant: 300 Mansfield Avenue
Darien, CT 06820

Name and Address of Applicant's Representative: Tim O'Neill
c/o Country Club of Darien
300 Mansfield Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to replace failing existing spillway structure on Goodwives River; replace existing stone wall with realignment/relocation; replace two existing golf cart bridges; pond expansion and wetland plantings; rebuild 12th green; and perform related site development activities within a regulated area.

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Property Location: The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road.

Zone: R-2

Date of Public Hearing: September 4, 2012

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

Publication of Hearing Notices

Dates: August 24 & 31, 2012

Newspaper: Darien News

Date of Action: October 2, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 12, 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, 1000, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted photographs and plans, and the statements of the applicant's representative, whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The subject application is to replace a failing existing spillway structure on Goodwives River; replace existing stone wall with realignment/relocation; replace two existing golf cart bridges; pond expansion and wetland plantings; rebuild the 12th green; and perform related site development activities within a regulated area.
2. The Environmental Protection Commission (EPC) approved this project on August 1, 2012 as part of EPC #28-2012. That approval is hereby incorporated by reference.
3. A letter was submitted from a professional engineer from GHD, Inc., noting that the proposed work will comply with the flood damage prevention regulations, and that the replacement structures have been designed to withstand the impact of flooding.

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4. No change in membership or general activities at the club is proposed as part of this application. Any changes to the nature of on-site uses would require an amendment of the existing Special Permit (review and approval by the Planning and Zoning Commission).
5. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
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.
7. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #60-K, Flood Damage Prevention Application #208-A, Land Filling & Regrading Application #121-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Activity shall be in accordance with the plans submitted to the Commission entitled:
 - Country Club of Darien Goodwives River Spillway Replacement Spillway, Stone Wall, and General Site Plan, by GHD, Inc., dated 16 July 2012, Drawing No. SP-1.
 - Country Club of Darien Goodwives River Spillway Replacement Golf Cart Path Bridges and Planting Plan, by GHD, Inc., dated 16 July 2012, Drawing No. SP-2.
 - Country Club of Darien Goodwives River Spillway Replacement Erosion Control Site Plan, by GHD, Inc., dated 16 July 2012 rev 7 August 2012, Drawing No. SP-3.
- B. Since there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for Stormwater Management per Section 880 of the Darien Zoning Regulations.
- C. During construction, the applicant shall utilize any sediment and erosion control measures as shown on the plans noted in Condition A, above, and any that may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the project and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. As noted by the applicant, this application proposes no change or increase in the uses or membership in the Country Club of Darien. Any such proposals would require an amendment of the Club's Special Permit, and action by the Planning and Zoning Commission.

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- E. The granting of this Permit 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.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 2, 2013).

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. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #269-A, Land Filling & Regrading Application #269-A, Francis & Catherine Gallagher, 32 Pasture Lane. Proposing to construct a 17' x 20' shed on the north side of the property with associated landscaping, to move the pool equipment to the north side of the property; and perform related site development activities within a regulated area.

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the request subject to the conditions and stipulations as noted. The motion was made by Mr. Cunningham and seconded by Mr. Spain. All voted in favor, except Mr. Voigt who abstained because he had not attended the Public Hearing. The motion passed by a vote of 5-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 2, 2012**

Application Number: Coastal Site Plan Review #269-A
Land Filling & Regrading Application #269-A

Street Address: 32 Pasture Lane
Assessor's Map #51 Lot #57-A

Name and Address of Applicant: Francis & Catherine Gallagher
And Property Owner: 19 Academy Street
Darien, CT 06820

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Name and Address of: John Doherty
Applicant's Representative: Doherty & Deleo
c/o 16 Morley Lane
Darien, CT 06820

Activity Being Applied For: Proposing to construct a 17' x 20' shed on the north side of the property with associated landscaping, to move the pool equipment to the north side of the property; and perform related site development activities within a regulated area.

Property Location: The subject property is on the southeast side of Pasture Lane approximately 2,300 feet east of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: September 4, 2012

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

Publication of Hearing Notices

Dates: August 24 & 31, 2012 Newspaper: Darien News

Date of Action: October 2, 2012 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
October 12, 2012

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

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

1. The application is to construct a 17' x 20' shed on the north side of the property with associated landscaping, to move the pool equipment (with the exception of the spa motor, which will remain in the vicinity of the pool) to the north side of the property; and perform related site development activities within a regulated area. As part of a related application approved by the

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Commission in February 2012, the applicant received approval to raze the existing residence and detached garage, and construct a new single-family residence with attached garage, and above-ground swimming pool, and perform related site development activities within regulated areas.

2. The work proposed as part of this application is within the 1,000 foot regulated area established by the Coastal Area Management Program. The submitted plans and application materials had been referred to the State of Connecticut DEEP by Planning & Zoning Department staff. State DEEP responded with an email dated September 4, 2012, indicating that they found that the proposed plans were not inconsistent with the Coastal Area Management Policies.
3. As part of the previous application for the new residence, proposed underground Cultec units were proposed and installed to address stormwater quality. A July 18, 2012 letter from professional engineer Rob Frangione notes that by adding one more Cultec unit, the drainage system will be able to treat the water quality volume from the shed. As noted within the submitted application materials, the proposed shed will have gutters and leaders that will lead to these Cultec units, which have been installed. The property owners filed a Notice of Drainage Maintenance Plan in the Darien Land Records, which will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
4. Detailed landscaping plans were submitted as part of the subject application to assist in minimizing the visual and potential noise impacts of the shed and pool equipment on both neighbors to the north, and those neighbors across Darien Harbor.
5. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
6. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #269-A and Land Filling & Regrading Application #269-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction of the boat shed, installation of pool equipment, landscaping, and other site development activity shall be in accordance with the following plans as submitted to the Commission:
- Site Drainage Plan, Proposed Drainage Plan on Property of Francis & Catherine Gallagher, 32 Pasture Lane by Frangione Engineering, last revised 7/18/12, Sheet S1 (with pool equipment and proposed shed highlighted in yellow)
 - Proposed storage shed, Frank & Cathy Gallagher 32 Pasture Lane, dated 7/15/12, scale 1/4"=1'-0".
 - Landscape Plan Gallagher Residence 32 Pasture Lane, by Minuteman Land Services, Inc., designed by Jordan & Lisa Grant, dated August 10, 2012, not to scale.
 - Gallagher Shed, 32 Pasture Lane, landscape rendering plans dated July 31, 2012 (five 11" x 17" sheets).

The submitted landscaping plans are an integral part of this approval, especially as it relates to the screening of the transformer, HVAC and pool equipment; the screening of the proposed shed; and the area adjacent to the water.

- B. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- C. As part of the prior application, a Drainage Maintenance Plan was submitted for the record. This Drainage Maintenance Plan requires the property owner and all subsequent property owners of 32 Pasture 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.
- D. Once the project is complete, and prior to February 7, 2013, the applicant shall certify in writing and/or photographs that all work has been properly completed in accordance with the approved plans. This includes the boat shed construction, pool equipment, and the landscaping as shown on the submitted and approved plans.
- 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 the permit as it deems appropriate.
- F. 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.
- G. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 12, 2013).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the

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start of any work and prior to the issuance of a Zoning and Building Permit for the shed, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Land Filling & Regrading Application #277, Town of Darien Public Works Dept., 57 Camp Avenue. Proposing to eliminate existing wall, and fill and regrade within the existing Town right-of-way in front of 57 Camp Avenue.

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Spain and seconded by Mrs. Cameron. All voted in favor except Mr. Voigt who had not been able to attend the Public Hearing. The motion passed by a vote of 5-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 2, 2012**

Application Number: Land Filling & Regrading Application #277
Town of Darien Public Works Dept.

Street Address: 57 Camp Avenue
Assessor's Map #8 Lot #108 & #109

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

Name and Address of Applicant & Applicant's Representative:	Darren Oustafine, PE Darien Public Works Dept. 2 Renshaw Road Darien, CT 06820
----------------------------------------------------------------	-----------------------------------------------------------------------------------------

Activity Being Applied For: Proposing to eliminate existing wall, and fill and regrade within the existing Town right-of-way in front of 57 Camp Avenue.

Property Location: The subject property is located within the right-of-way in front of 57 Camp Avenue. 57 Camp Avenue is located on the south side of Camp Avenue Road approximately 700 feet east of its intersection with Hoyt Street.

Zone: R-1/3 Zone

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Date of Public Hearing: September 4, 2012

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

Publication of Hearing Notices

Dates: August 24 & 31, 2012

Newspaper: Darien News

Date of Action: October 2, 2012

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

October 12, 2012

Newspaper: Darien News

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

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted sketch, 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 eliminate an existing wall, and fill and regrade within the existing Town right-of-way in front of 57 Camp Avenue. At the public hearing it was noted that there is an existing stone wall within the Town right-of-way. That wall was recently damaged by an automobile. The project will eliminate the wall, and replace it with a slope down to the existing paved Camp Avenue. A flat area will remain near Camp Avenue for the possible construction of any future sidewalk in this area. About 34 cubic yards of fill are required for this project.
2. At the public hearing, Darren Oustafine, a professional engineer, noted that there will be no increase in impervious surface as part of this application, and no change in the overall drainage patterns on the site.
3. The property owner at 57 Camp Avenue has sent a letter of support for this project. At the hearing, a question arose regarding possible trees to be removed as part of this project. It was noted that one tree may need to be removed. If so, the tree warden will post the tree pursuant to Town policy.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #277 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the photograph with white lines showing the area of regrading submitted to and reviewed by the Commission.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During the regrading and site work, the applicant shall utilize any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. The Commission hereby waives the requirement for Stormwater Management under Section 880, since no new impervious surface is being created as part of this application.
- 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 the permit as it deems appropriate.
- F. 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.
- G. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 2, 2013). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling, excavation or regrading work proposed as part of this application, or this approval shall become null and void.

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Publication of Hearing Notices

Dates: August 24 & 31, 2012

Newspaper: Darien News

Date of Action: October 2, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 12, 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, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted sketch, 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 modify the Commission's 2011 approval for three temporary, portable lights at Holahan Field. This application is to request a change in the maximum height of the lights of up to 30 feet for the fall 2012 DJFL season.
2. On September 27, 2011, the Commission granted the DJFL approval for portable temporary light use at Holahan field in the fall of 2011 and the fall of 2012. Fall 2011 was implemented with 20-foot lights. On August 5, 2012, the Darien Zoning Regulations were amended by the Commission to allow temporary, portable lights to be a maximum of 30 feet high. This application proposes such lights of up to 30 feet high, as now allowed by the Regulations, with no change to the schedule of use by the DJFL (dates and times) previously granted by the Commission for Holahan Field.
3. At the public hearing, a DJFL representative explained the differences between the subject application and the application submitted and granted last year (Special Permit Application #125-D(2)/Site Plan). He noted that the only difference is that a maximum 30 foot building height is being requested within this application, whereas last year's DJFL application was for a maximum of 20 foot high lights at Holahan Field.
4. As noted within the Commission's prior approvals for DJFL portable, temporary light use, the applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up into middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and

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now has more than 500 players on a variety of teams and age levels. Prior to 2008, it functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission without the installation or use of artificial lights.

5. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring a Special Permit. That Section, as recently amended by the Commission, reads as follows:
 - b. *Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*
 - (1) *The source of such lights shall be concealed from surrounding residential properties;*
 - (2) *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
 - (3) *No permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.*
 - (4) *Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:*
 - a) *Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;*
 - b) *Located on public (i.e. Town-owned) property; and*
 - c) *Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.*
6. At the public hearing, a representative from the DJFL noted that the proposal is to install three temporary diesel-powered generator light stands to allow DJFL practices at Holahan field using the same schedule approved by the Commission in 2011. This includes use from 5:30 p.m. to 7:30 p.m., with practice generally ending at or about 7:00 p.m., and giving everyone time to exit the field.
7. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were satisfactory for this trial period. The Commission is looking for the DJFL to manage this temporary lights program. Use of this field is authorized by the Parks and Recreation Commission.
8. The subject application is solely for portable, lights to be used on a temporary basis and for practices only, not games. The usage of the lights was specifically defined and limited by the applicant within the prior application materials and at the public hearing. No change in usage is proposed as part of this application. Any request for lighting beyond November 19, 2012 requires a subsequent Special Permit application to this Commission.
9. In a post-season written report to this Commission following last year's temporary use of lights at this location, and during the hearing on the current application, the DJFL reported that they

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sought to arrange for utility powered temporary lights this year but encountered a number of difficulties. They also presented testimony that sound absorbing and deflecting baffles or shields could be used to reduce the sound impact of generators upon residents of nearby streets.

10. The information gathered during the 2011 and 2012 seasons could be helpful in any future analysis of light proposals for the subject property. The Commission notes that there can be other stipulations required by the Commission to ensure that the lights do not have a detrimental impact on the neighborhood. The Commission notes that some of the expressed concerns were due to the proposed use of diesel generators for the lights. If there is a future request, the Commission could be expected to encourage identifying and, if practicable, implementing ways to power the lights without the use of diesel generators, and powering them via a silent source, such as utility power.
11. It was clear from the applicant's presentation that no different or more intense activity or use is being proposed as part of this application. The existing afternoon and early evening football practices on Holahan field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No other use of the lighted field is being requested.
12. At the hearing, the applicant's representative stated that if the 30 foot modification is granted, the League will maneuver the lights to achieve better illumination for the players' use during the practice sessions and also less glare for the neighborhood around the field.
13. The subject property is in an R-1/3 (residential) zone. This request includes tight control of ambient and direct light to minimize the impact on the neighbors' residential properties.
14. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare. An important aspect of this determination is the fact that this will be a trial use for a limited time, such that any impact upon property values and upon normal levels of quiet nighttime residential use will not be unreasonable given such a short time period of operation.
15. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding residential areas, and the suitability of such actions to the area for which it is proposed.
16. The nature of the proposed lighting is such that this trial project will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
17. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
18. The design, location, and specific details of the proposed use will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between

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adjoining developments and the district as a whole. The activity is not expected to add to the traffic volumes in and out of the Town Hall parking areas beyond what DJFL practices currently entail.

19. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations, particularly because it seeks a short term trial period activity.

NOW THEREFORE BE IT RESOLVED that Amendment of Special Permit Application #125-D(2)/Site Plan are hereby granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Installation of the portable, temporary lights up to 30 feet in height shall be in **full** accordance with the Special Permit #125-D(2), which allowed 20 foot portable, temporary lights in the same location, except that the only change is to allow the lights to be up to 30' tall.
- B. Light placement shall be in accordance with the submitted sketch entitled, "Approximate Location of 3 Light Towers & Sound Baffles at Holahan Field-2011-2012". Slight positioning adjustments may be made in the field to minimize impacts, but should be substantially similar to the placements shown on that sketch. In addition to careful positioning of the light stands to eliminate glare on neighbors' residences, applicants shall use their best efforts to install sound baffles or shields to absorb, reduce, and deflect the sound of the generators and the diesel engines from neighboring residences, and/or provide direct power to the lights.

The following conditions of approval are taken directly from the Commission's approval of Special Permit Application #125-D(2), and are incorporated by reference. They are included here for convenience, and, as modified, are still in full force and effect (with the only change being the permitted maximum height of the lights being increased from 20 feet to 30 feet).

- C. The lights (at a maximum of **30** feet high) shall only be turned on for DJFL practices during the time frames specified herein: Monday October 8, 2012 through Friday, November 16, 2012, 5:30 p.m.-7:30 p.m. (although the actual FCFL schedule has not yet been finalized for 2012, so these 2012 dates may change slightly). The 2012 schedule shall be provided to the Planning and Zoning Offices as soon as it is finalized. Only DJFL personnel shall be allowed to turn on the lights and turn them off. They shall be locked when not in operation.
- D. As teams are eliminated from the playoffs, and fewer children are practicing, DJFL is encouraged to continue to move the lights further away from the neighbors, and use fewer lights, as less field space may be needed for practice as the end of the 30-day use period approaches.
- E. Similar to prior years, the DJFL shall notify DJFL parents that turning on their vehicle headlights during practice or after practice beyond normal driving needs is not permitted. It is recommended that this notice be done via e-mail and also with a sign at the Holahan Field site.

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- F. No players or coaches shall be picked up or dropped off on St. John's Place or on Cherry Street. Drop offs and pick ups shall take place in the Town Hall parking lot. It is recommended that DJFL notify parents of this via e-mail and with a sign at the Holahan field.
- G. On Mondays through Thursdays, the 30 foot high portable lights may stay on the field at their normal operating locations. On Friday nights, or on Saturday mornings, and if required by the Park and Recreation Director, the lights shall be rolled back by the cemetery (near the 8-man sled) so that the fields may be used by other teams over the weekend.
- H. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 8, 2012 and prior to the installation of the portable lights. This should be a phone number for someone who can be contacted while the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operation" report required by the Commission herein. Also included should be a full report about adjustments of the lights to 30 feet and how they were moved, shielded, tilted, etc. to perform better for the teams, and to have a lessened impact and spillage on the surrounding residences. Drawings, plans, and diagrams should be included where helpful.
- I. Within 60 days after the final light use allowed under this decision (such final use date expected to be on or before November 19, 2012), DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what improvements could be made to minimize potential impacts (if any) if similar temporary lights are used in the future. In order for the Planning & Zoning Commission to get a better understanding of how this trial period has worked, a copy of said report shall be submitted to the Planning & Zoning Office before January 31, 2013, so that the Commission can discuss said report at a meeting in late January or February 2013. These basic reports shall include the dates and hours the lights were used, as well as any complaints or comments received. A lights expert does not need to be hired to report. These reports will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights may have had. If the "shuffle"/Mather Community Center construction is occurring in 2012, then a very brief report shall be issued with any expected condition changes due to the ongoing construction at 2 Renshaw Road.
- J. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. **The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.**
- K. 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,

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deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

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

Chairman Conze read the following agenda item:

Special Permit Application #39-M/Site Plan, St. Luke's Episcopal Church, 1864 Boston Post Road. Proposing to renovate a portion of the undercroft (the basement area below the main sanctuary building), and excavation of a portion of the berm surrounding the church building to create a new entrance. The undercroft will be renovated to be used as a new choir room.

Mr. Ginsberg noted that the Zoning Board of Appeals had granted the requested variance and the Architectural Review Board reviewed the architectural design. Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the requested modifications subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 2, 2012**

Application Number: Special Permit Application #39-M/Site Plan

Street Address: 1842-1864 Boston Post Road
Assessor's Map #49 Lots #52, #54, #55, #56

Name and Address of Property Owner: St. Luke's Episcopal Church
1864 Boston Post Road
Darien, CT 06820

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

Activity Being Applied For: Proposing to renovate a portion of the undercroft (the basement area below the main sanctuary building), and excavation of a portion of the berm surrounding the church building to create a new entrance. The undercroft will be renovated to be used as a new choir room.

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Property Location: The subject property is located on the south side of Boston Post Road, at the southeast corner of its intersection with Ring's End Road.

Zone: R-1 & R-1/2

Date of Public Hearing: September 18, 2012

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

Publication of Hearing Notices

Dates: September 7 & 14, 2012

Newspaper: Darien News

Date of Action: October 2, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: October 12, 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, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment 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 renovate a portion of the undercroft (the basement area below the main sanctuary building), and excavation of a portion of the berm surrounding the church building to create a new entrance. The undercroft will be renovated to be used as a new choir room.
2. At the public hearing, architect Neil Hauck explained that the existing church building pre-dates the Darien Zoning Regulations. The sanctuary is non-conforming relative to both setbacks and building height. In the past, the undercroft was used as a youth room. They now wish to move the music program to that space. They wish to have a new entryway from the parking lot and they will achieve that via excavation.
3. There are no proposed changes to the activities at the Church. There will be no increase in the intensification of use. The Commission agrees with the applicant that parking is not an issue if there is no change in the proposed use of the building.

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4. The applicant noted that there was no work within the wetland regulated area which is on the other side of the property.
5. The Architectural Review Board (ARB) approved this project in concept on September 18, 2012. That approval is hereby incorporated by reference.
6. It was noted that a variance from the Darien Zoning Board of Appeals (ZBA) would be needed for increasing the building height. The average grade is dropping, thus changing the calculated building height. Staff noted that the Commission could receive the ZBA variance after the fact. In fact, on September 19, 2012, the Zoning Board of Appeals did grant a variance for the project (Calendar #40-2012).
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
10. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit #39-M/Site Plan is hereby granted subject to the foregoing and following stipulations and understandings:

- A. Construction and other activity shall be in accordance with the plans entitled:
 - St. Luke's Episcopal Church Undercroft Renovation, Floor Plan Grading & Drainage Plan, dated 8/13/12, Sheet A-1.
 - St. Luke's Episcopal Church Undercroft Renovation, Rear Elevation, dated 8/13/12, Sheet A-2.
 - St. Luke's Episcopal Church Undercroft Renovation, Existing and Proposed Height Calculations, dated 8/13/12, Sheet A-1.
- B. Any expansion of and/or changes to use or uses beyond that specified in this resolution will require prior approval by the Commission per Section 1000 of the Darien Zoning Regulations.
- C. The Commission finds that there is very little new impervious surface as part of this project, no stormwater management is required as part of this application, other than the trench drain proposed and shown on the submitted plans.

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- D. Under Section 909 of the Zoning Regulations, the Commission hereby waives the requirement for a loading zone.
- 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. 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.
- G. 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 two (2) years of this action (October 2, 2012). 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. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Conze read the following agenda item:

Business Site Plan Application #24-S/Special Permit, Flair Fitness, LLC., 25 Old Kings Highway North. Proposing to modify two storefronts to include the establishment of two smaller stores and two indoor recreation studios to accommodate up to 30 and 40 people.

Commission members reviewed submitted material. The following motion was made: That the Planning & Zoning Commission adopt the following resolution and approve the project in accordance with the submitted material. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 2, 2012**

Application Number: Business Site Plan Application #24-S/Special Permit
Flair Fitness, LLC

Street Address: 25 Old King's Highway North
Assessor's Map #71 Lot #19

Name and Address of Applicant: Wilder Gleason, Esq.

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& Applicant's Representative: Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Name and Address of:
Property Owner: UB Darien Inc.
Urstadt-Biddle Properties, Inc.
321 Railroad Ave.
Greenwich, CT 06830

Proposed Tenant: Flair Fitness, LLC

Activity Being Applied For: Proposing to modify two storefronts to include the establishment of two smaller stores and two indoor recreation studios to accommodate up to 30 and 40 people.

Property Location: The subject site is located within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road.

Zone: DC

Date of Public Hearing: September 18, 2012

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

Publication of Hearing Notices
Dates: September 7 & 14, 2012

Newspaper: Darien News

Date of Action: October 2, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 12, 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 630 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 floor plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

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1. The proposal is to modify two storefronts and occupy approximately 3,350+/- square feet to include the establishment of about 450 square feet of related retail use, and two indoor recreation studios which could accommodate up to 30 and 40 clients within Goodwives Shopping Center. The space the applicant proposes to lease within Goodwives Shopping Center is half of the former Rugged Bear space near the existing Global Pet Foods space.
2. Flair Fitness is considered a Special Permit use under Section 634f of the Darien Zoning Regulations, which allows Indoor Recreation Facilities via Special Permit. The proposed use is for both dance-based exercise and training, as well as a sublease to other training providers such as ballroom dance, hip-hop, and ballet.
3. Flair Fitness will occupy the tenant space and sub-lease to similar type uses, such as ballet classes, hip hop classes, ballroom dancing and others. There will be two different studios. There will be 40 students maximum in the larger studio and 30 students maximum in the smaller studio. Revised plans dated August 14, 2012 show the larger studio as being 1,225 square feet and the smaller studio being 625 square feet. They expect to stagger classes such that there is sufficient time between the end of one class and starting another class. They would like to have smaller classes from 12-1:30 P.M. with a maximum of 20 participants per classroom maximum to avoid impacting restaurants within the shopping center. The type of classes that would be offered at the time could include: classes for children or “mommy and me” type classes.
4. The associated retail pro shop, which is about 250 square feet, will support all of the businesses present in this space and is considered retail as-of-right usage. It was noted at the public hearing that the tenant Flair Fitness is responsible for soundproofing their space as to not impact adjacent tenant spaces.
5. According to the Darien Zoning Regulations, the shopping center would require a total of approximately 1000 on site parking spaces, but there are approximately 465-486 parking spaces for the 96,000+/- square foot building on the subject property. As part of previous applications for the Goodwives Shopping Center, the Planning and Zoning Commission made a finding under Section 904 of the Darien Zoning Regulations that due to the unique nature of the Goodwives Shopping Center, the parking is adequate. The proposed use is more parking intense than typical retail stores, but because they are only leasing a small portion of the Shopping Center, the Commission finds that no increase in parking spaces would be necessary. The Commission also finds that the proposed capacity of the on-site parking will meet the intent of the regulations.
6. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
7. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

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8. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #24-S/Special Permit is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the proposed indoor recreational facility use as described in the application materials and at the Public Hearing, and approves the floor plan concept entitled, "Flair Proposed Floor Plan" dated August 13, 2012 and last revised August 14, 2012, showing 3,324 sf.", and submitted as part of the application materials. Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans and use of the space must be consistent with representations made at the public hearing by the applicant, and this resolution.
- B. The Commission hereby requires the staggering of classes by at least 15 minutes as proposed by the applicant as well as a limit on the number of clients per studio at any one time (40 in the larger studio and 30 in the smaller studio) as proposed by the applicant at the public hearing and within the submitted application materials. As proposed by the applicant, a 20 student limit shall apply in both studios from 12 noon to 1:30 p.m., so as to minimize potential parking impacts with restaurants within Goodwives Shopping Center.
- C. Because of the nature of the business and its proposed subtenants, and the unique location of Goodwives Shopping Center, there are no limits on the maximum hours of operation, other than any restrictions noted in Condition B, above.
- D. There is no new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- E. If needed, the applicant shall use the trash area and dumpsters located behind the building. If used by this tenant, the tenant shall work with others to keep it neat and orderly.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this 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. The Fire Marshal noted that the space requires a fire sprinkler system if not already

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installed. Any desired signage requires review and action by the Architectural Review Board (ARB).

- H. 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 (October 2, 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, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Amendment of Special Permit Application #205, Flair Fitness, Goodwives Shopping Center, 25 Old King's Highway North.

Request to use a 1,200 square foot portion of the space previously approved by the Commission for YMCA gymnastics within Goodwives Shopping Center to hold a fitness class for one hour a day, three days a week, for three months.

Chairman Conze noted that the request by Flair Fitness to hold fitness classes in the old YMCA gymnastics facility on a temporary basis has been withdrawn.

Chairman Conze read the following agenda item:

Amendment of Subdivision Application #164-B, Karczewski, 40 Noroton Avenue.

Request to eliminate existing driveway on Noroton Avenue.

Commission members reviewed the request to eliminate the existing driveway from Noroton Avenue. It has been part of the original subdivision approval that the driveway would be eliminated but the Karczewski's had previously requested and been granted approval to allow the driveway to remain as is. They now wish to eliminate the driveway as per the original subdivision approval. The Commission members discussed the request. The following motion was made: That the Planning & Zoning Commission approve the Karczewski's current request to eliminate the driveway in accordance with the original subdivision approval. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Helen Ainson, 1078 Boston Post Road.

Request for temporary tent for one-day special event fundraiser.

Commission members reviewed the request to have the one day special fund raiser event and to have a tent within some of the required parking spaces. The following motion was made: That the Planning & Zoning Commission approve the one day special funder raiser event and the temporary

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obstruction of several of the parking spaces by the tent. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Business Site Plan #228, Little Red Schoolhouse, 21 Tokeneke Road, CBD Zone.

Request to allow The Hairy Barker Pet Grooming Salon to expand to the front side of the Little Red Schoolhouse which is currently occupied by D'Iorio Printing. This will allow the Hairy Barker to establish a retail aspect on the Tokeneke Rd. side of the building.

Commission members reviewed the requested modifications regarding the occupancy of the building. The following motion was made: That the Planning & Zoning Commission approve The Hairy Barker Pet Grooming Salon to be expanded on the first floor in accordance with the submitted materials. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Subdivision Application #323-A, Kane, Five Mile River Road.

Request for clarification on time requirements.

Commission members reviewed and discussed the materials. They agreed that the time extension and clarification was appropriate. Staff will follow up with a letter. The following motion was made: That the Planning & Zoning Commission approve the modification and clarification as requested. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following agenda item:

Special Permit Application #260, Land Filling & Grading Application #221-A, Rob Lavin 480 Middlesex Road.

Request for release of bond.

Mr. Ginsberg explained that he believed it was appropriate that the Commission release the requested bond in accordance with the submitted materials. The following motion was made: That the Planning & Zoning Commission approve the bond release for the Lavin project at 480 Middlesex Road. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

Business Site Plan #248/Special Permit, Swimm Pools, 512 Boston Post Road

Request to modify previously approved site plan by deleting requirement for landscaped island, and associated request for release of required bond.

Mrs. Cameron abstained from discussion or voting on this application. Mr. Ginsberg said that he checked this request with the Police Department and they concur that the landscaped island is not

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necessary. The process would involve modifying the approval to eliminate the need for landscape island between the travelled portion of the Boston Post Road and the parking area, and to release the performance bond that had been submitted to, and held by, the Town.

Mrs. Cameron abstained from discussion or voting on this application. The following motion was made: That the Planning & Zoning Commission approve the requested modification of the Site Plan, and the associated release of the performance bond. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor except Mrs. Cameron who abstained. The motion passed by a vote of 5-0-1.

Chairman Conze read the following agenda item:

Approval of Minutes

September 4, 2012 Public Hearing/General Meeting

The following motion was made: That the minutes be approved subject to the correction of typos. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

September 18, 2012 Public Hearing/General Meeting

The following motion was made: That the minutes of September 18, 2012 be approved subject to the correction of typos. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

There was no other business. The following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Spain and unanimously approved. The meeting was adjourned at 10:48 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director