

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
May 3, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

PUBLIC HEARING

Mr. Spain read the following agenda item:

Proposed Amendments of Darien Zoning Regulations #2-2011, Site Plan Application #269-A/Special Permit Application #265, Land Filling & Regrading Application #225-A, Post Road Eleven, LLC, 1292 Boston Post Road.

Proposing to raze the existing building, and to construct a new two-story building with associated landscaping and shared parking; and to regrade and construct a new retaining wall and perform related site development activities.

Associated amendments to Darien Zoning Regulations Subsections 226, 661, and 666 are proposed, as is the creation of a new subsection 667.1. The change to subsection 226 (Design Standards for Parking) would allow high eaves to be excluded from the calculation of parking space and aisle dimensions. The change to subsection 661 (Background and Purposes in the SB Zone) is to add to the Background and Purposes subsection a statement regarding lots of less than 10,000 square feet in size. The change to subsection 666 (Area and Bulk Requirements in the SB Zone) is to add a new note "e" to the Area and Bulk requirements, which refers to subsection 667.1. A new subsection 667.1 is proposed, which is entitled, "Special Controls and Design Standards for Small Lots in Existence on January 1, 2010", and proposes to establish such special controls and design standards for certain lots of less than 10,000 square feet in size. The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. The subject property is on the southeast side of Boston Post Road at the corner formed by its intersection with the northbound on ramp at interchange 11 of I-95, and is shown on Assessor's Map #63 as Lot #1 and is located in the Service Business (SB) Zone.

Attorney Robert F. Maslan, Jr. represented the applicant and explained that the property was leased several years ago and the existing building has remained vacant. They have applied to the Zoning Board of Appeals on several occasions for variances to redevelop the property—none of those variances were granted. He said that the proposed draft amendments to the Regulations are a result of working with staff. Attorney Maslan said that they have received a copy of Michael Galante's peer review regarding the traffic and parking situations. Attorney Maslan submitted proof of mailing of notification to neighboring property owners.

Attorney Maslan then reviewed an aerial photograph of the site and surroundings and explained that state owned land for the Connecticut Turnpike and the on-ramp are located adjacent to the property.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 2 OF 21

To the rear of the property are several residential properties located on Old King's Highway South and Waring Lane. On the same side of the Boston Post Road is a veterinary hospital and across the street is an automotive business. He said that the site plan that has been submitted shows the existing and proposed grades along with the existing and proposed parking and building configuration. He said that they have attempted to acquire additional land from the State of Connecticut Department of Transportation (ConnDOT), but the Connecticut Department of Transportation has indicated that the land is not available at this time due to a stalled State project concerning highway modifications.

Attorney Maslan said that the subject property is approximately 8,000 square feet in area, and is much smaller than most other lots within the Service Business (SB) Zone. He said that it cannot be developed to comply with the current SB Zone Regulations and therefore needs some form of variance or modification of the Regulations. The SB Zone does not allow office uses and generally allows retail uses only if they require some form of external use or activity (such as a lumber yard). They are asking that the Regulations be modified to allow the proposed antique store on the ground floor and the offices on the second floor.

He said that they are also asking for modification of Section 226 of the Zoning Regulations so that the parking aisle width would exclude the eaves of the structure or any part of the structure that is more than 16 feet above the ground level. He said that vehicles cannot be that high, and therefore it makes sense that the dimension of the back-up aisle exclude any portions of the structure that are more than 16 feet above the ground level. He said that they are also asking for amendments of Section 661 of the Zoning Regulations to address properties within the Service Business Zone that are very small and already exist. Specific design standards are contained within proposed amendments of Section 667 which would reduce the setback and buffer requirements for such small parcels. In each case, the Commission must find that there is sufficient buffer and screening that exists or will be established to protect the adjacent property owners. The proposed amendments would also allow a greater percentage of lot area to be covered by the building and the site development. Attorney Maslan said that another portion of the amendment would be to allow more and different uses within this transition area between the Central Business District and the Service Business Zone which has other uses situated on much larger lots. He said that they have submitted portions of the Town Plan of Conservation and Development that support these changes.

Mr. Spain asked if the Commission shouldn't be considering a change that would affect more than just one particular parcel. Attorney Maslan responded that other parcels are not specifically impacted by an extraordinarily small size, or their proximity to the CBD and a residential zone.

Mr. Hutchison and Mr. Spain noted that many other properties in the Service Business Zone do back up to residential zones and that they need to carefully consider the ramifications about the proposed changes at this site and at other sites in the Service Business Zone. Mr. Maslan said that he, too, is concerned about "unintended consequences" and that is why any development using these exemptions would be subject to a Special Permit from the Planning and Zoning Commission, not just a site plan approval. In each case, the Commission must make a determination that the change of grade or other features are sufficient to justify special consideration for the special design criteria.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 3 OF 21

David LaPierre, Project Architect, reviewed the architectural plans for the building, including the floor plans and extra elevation drawings. He noted that the building is highly visible from the north bound off ramp from I-95. He said that they are trying to create a jewel of a building that will be a credit to the community. He said that due to the steep grade on the rear portion of the property and the adjacent residential properties, the proposed two story building will appear from the rear like a building that is shorter than two stories. He said that the building design has been modified on numerous occasions in the past two years in order to address concerns expressed by the Architectural Review Board and the Zoning Board of Appeals. The colors of the building would be earth tone, and its natural like materials would be in keeping with the area. He said that there would be no windows on the residential side of the building. He added that the only lighting on the rear of the building would be security lights, but they would not be facing the neighbors. He said that the first story of the building would be brick and the second story would be painted wood. Mr. LaPierre said that the Architectural Review Board is very happy with the design of the building.

Project Engineer, Todd Ritchie, reviewed the site plan. He said that the design of the parking area and the location of the building have been purposely designed to keep a 24 foot section in the front of the property available for possible access to land that is currently owned by the State of Connecticut, and which in the future might become available. He said that this provision means that the proposed building cannot be pushed forward (farther away from the residential zone boundary).

In response to a question about the building design, Mr. Ritchie said that another retaining wall would be constructed along the rear property line adjacent to the proposed parking. The rear of the building also would serve as a retaining wall. From these retaining walls, the grade moves upward as the land changes from the Service Business Zone to the Residential Zone. If the retaining wall is not installed along the parking lot area, or if the building does not serve as a retaining wall, then the steep-sloped area would be subject to erosion.

In response to questions, Mr. LaPierre said that the proposed cupola on the top of the building is included in the design. If it is included in the building height calculations, then the building would exceed the maximum 28 feet allowed in the Regulations by approximately one foot. He also said that the rear wall of the building would be located approximately six feet from the rear lot line and it is specifically designed to serve as a retaining wall, holding back the existing steep slope adjacent to the property line and residential zone.

Mr. Spain said that the current Regulations would require a 25 foot wide buffer adjacent to the rear property line (the zone boundary line). In this case, they are proposing a 6 foot buffer in the vicinity of the building and a zero buffer at the proposed parking area.

Mr. Ritchie said that the reason that the building and parking area are pushed so far back is to provide potential access to the adjacent State land. He was also asked about the handicapped parking space that is closest to the proposed retaining wall. He said that the handicapped parking space must be at least 8 ft. wide and have an 8 ft. wide striped area adjacent to it. This allows for the turning key so that motorists backing up from the handicapped space and from the other parking spaces will have a sufficient turn around area. If you delete the handicapped parking space from that particular area, there would be no other location for handicapped parking space.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 4 OF 21

Attorney Maslan said that Section 944c of the existing Regulations already allows the Planning & Zoning Commission to take into account the existing topography and landscaping and thus to reduce the width of a standard buffer area. He said that the handicapped van parking space requirement is a fairly new requirement under the Americans with Disabilities Act (ADA) and it is almost as wide as an additional parking space. He said that the standard parking space of 20 ft. plus a required 24 foot back up aisle means that a standard parking space and the back up aisle will occupy 44 feet. That requirement does not exempt high architectural features that might project over a portion of the back-up area, but which would not affect the ability of the vehicle to back up. He said that this regulation needs some form of clarification. He said that the 16 ft. high proposed amendment would exceed the height of any vehicles that would need to pass through the area. He referred to the building at 777 Boston Post Road where the backup aisle is actually underneath a second story portion of the building.

Mr. Spain said that the covered back up aisle at 777 Boston Post Road is partly why the UPS and other delivery trucks frequently park on the street and block traffic in the Boston Post Road rather than going into the parking area. He said that is not a situation that should be emulated. Attorney Maslan said that the space under the building is not 16 feet tall, and therefore it is not possible for the delivery vans to get underneath there. He said that he wants the Regulations amended to clarify it for everyone.

Mr. Ritchie said that the relocation of the handicapped parking space is difficult due to several concerns. He is not comfortable with the other locations that were being suggested.

Mrs. Cameron mentioned that the planting of arborvitae shrubs along the rear property line would not result in the same visual effect as the existing trees that are located within that existing buffer area. She is particularly concerned about the location of the large tulip tree that would be substantially impacted by the extensive regrading in the area.

Carol Guthrie, Landscape Architect, said that if you are standing in the parking lot, then you would be looking up at the bottom of the trees along the property line because the retaining wall in that area would be approximately 8 feet high. She said that the tulip tree will not survive the extensive site work. Mr. Ritchie said that the root system of the tulip tree is already compromised due to the eroding soil of the steep slope. Ms. Guthrie said that the other roots of the tulip tree would be impacted by the regrading and they would need to cut the tree down at the stump and leave the stump and roots intact. Mr. Ritchie said that it would be appropriate for the property owner to remove this tulip tree before it falls down and causes damage to any structures or vehicles. He said that the slope in the area is currently unstable. Mrs. Cameron said that the tree appears to be on or very close to the property line and it is a substantial tree that has a large canopy that helps to form a substantial buffer area to protect the residential property.

Ms. Guthrie submitted a photograph of the trees in winter time and said that the canopy of the large trees is approximately 60 feet above ground level. She said that a proposed fence will be installed along the zone line to help make a permanent and effective buffer. The arborvitae will be planted up the slope and not at the buffer line. She said that with the neighbors' permission, they will continue the line of fence and arborvitae into the residential properties. She said that the arborvitae will cover the view of the building.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 5 OF 21

Todd Ritchie said that if the tree comes down on its own, then additional erosion of the soil will occur. Mr. Ritchie reviewed the Drainage Plan noting that it complies with the provisions of the Zoning Regulations. He said that there will be no basement in the building and that they are actually reducing the amount of roof area of the building. They are using pervious pavers and paving blocks that will allow 100% of the water to drain through the solid surface. He said that the sand and gravel soils that form the subsoil will absorb the water under the paver block area. An overflow drainage connection will be made to the drainage system in the State highway. The storm water runoff from the roof of the building will be directed into a new, underground storm water detention facility (sized for a 50 year storm) before the overflow is allowed to go into the State drainage system.

Nick Fomenko, of Milone & McBroom reviewed his submitted Traffic & Parking Study. He said that he had also studied the April 17th review letter from Mike Galante (Traffic Consultant hired by the Town) and has responded in a letter dated May 3rd. He said that the sight lines exceed 445 feet to the left and 475 feet to the right and will be adequate for the speed of the traffic flowing through the area. He said that the proposed use will generate some traffic (it will be lower in the A.M. peak hour than it will be in the P.M. peak hour), but there would be no degrading of the level of service. The current level of service in the area is Level C. Mr. Fomenko said that using the parking demand criteria cited in the I.T.E. standards for an office use and an antique store they would have a combined peak demand of 8 parking spaces. Ten parking spaces are proposed on the site. Mr. Fomenko said the Department of Transportation (ConnDOT) does not want the driveway for this site to be incorporated into the traffic light. They want signage controls at the stop bar and the traffic would exit the site about 20 feet back from the signal-controlled intersection. When vehicles are waiting at the traffic light, vehicles would not be able to exit the site. He said that the occupants of the building will need to schedule their deliveries to be at off-peak hours in order to minimize the potential delays that the delivery vehicles would experience as they try to exit the site.

Mr. Fomenko said that Mr. Galante generally agrees with these findings that the proposed uses are relatively low traffic generators and that the sight lines are adequate and that the raw traffic data provided is adequate. Mr. Fomenko said that the business office is not expected to be open on Saturdays and that the peak parking demand for the retail use on the weekend will be four cars. He said that traffic would be allowed to turn left out of the site and would be able to turn right. Vehicles could only exit the site when the traffic conditions were safe. They would not be controlled by the traffic light.

Mr. Spain expressed concern about the office use and the amount of traffic that would be generated by an office use. He said that if it was a medical office building, the amount of traffic would be considerably greater than the amount of traffic expected for an architectural firm. He said that if the site development in the proposed building is approved, then the Commission would need to specify the low intensity office use.

Mrs. Riccardo expressed concern about delivery vehicles and the fact that they would likely park on the Boston Post Road. She asked how long they would park and how safe that parking would be. Mr. Fomenko replied that UPS or FedEx delivery trucks would park on the street for two to four minutes while they make a quick delivery. Larger trucks might also park on the street, but he noted that this is a very wide portion of the Boston Post Road.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 6 OF 21

Mr. Voigt said that the Traffic Report indicates that 9 accidents have occurred in this area in two years (from 2005 to 2007) and that another two accidents occurred in 2008. Mr. Fomenko responded that based on the volume of traffic that travels through this area, this is not a significant accident ratio. He said that he will provide more accident data when it is available from the Darien Police Department. He said that these traffic accidents are not related to the site activity. Mr. Voigt said that activity at the site could make the traffic accident situation even worse. Mr. Spain asked what Department of Transportation approvals or permits would be necessary for this project to move forward. Mr. Fomenko replied that the Department of Transportation would want to look at any design that the Town approves before they issue a permit to connect into the State road system.

Mike Galante of Frederick P. Clark Associates, the Traffic Consultant hired by the Town, referred to his April 13th letter and the May 5th response from Mr. Fomenko. He said that their response does address the issues raised in his April letter. He said that the proposed uses would generate 5 to 15 vehicle trips during the peak hour during the week days and possibly 12 vehicle trips in the peak hour on Saturday for the antique store. He said that the 10 on-site parking spaces would appear to be adequate provided there are no special events or sales that would attract extra customers. He said that this is a low volume driveway connecting into the Boston Post Road (State Highway Route 1). He agreed that the driveway should not be part of the traffic intersection and that is why the egress driveway from the site is moved so that it is not at the traffic light. He said that it would not be appropriate to prohibit left turns coming out of the site, but noted that motorists would need to be careful (based on the width of the road and the speed of the traffic) before they turn left in this area.

Mr. Galante said that he agrees that the level of service will not change due to this development and that the parking seems to be adequate based on typical conditions. He concurred that the amount of traffic accidents in the vicinity is insignificant compared to the volume of traffic.

Attorney Wilder Gleason said that he was hired by neighbors on Monday afternoon and requested that a continuance be granted so that he would be able to better familiarize himself with the application materials. Mr. Maslan said that he had no objection to the continuance.

Mr. Ginsberg read aloud the e-mail from the Department of Environmental Protection indicating that they found no inconsistencies between the plan and the Coastal Area Management policies. He also read aloud the March 28th response from the Southwestern Regional Planning Agency indicating that they found no inter-municipal impacts.

After a brief discussion, the following motion was made: That the Commission continue the public hearing regarding this matter at 8:00 P.M. on June 7, 2011 in the Darien Town Hall. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

At about 9:55 p.m., Mr. Spain read the following agenda item:

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 7 OF 21

Coastal Site Plan Review #265, Flood Damage Prevention Application #301, Peter & Susan Markham, 4 Shipway Road. Proposing to lift the existing single-family residence, and construct additions and alterations to it; relocate the existing driveway; and to perform related site development activities within regulated areas. The subject property is at the northwest corner formed by the intersection of Shipway Road and Waverly Road, and is shown on Assessor's Map #57 as Lot #29, in the R-NBD Zone.

Jacek Bigosinski, Project Architect, explained that the purpose of this project involves literally lifting up the existing house so that it will be above the expected flood level and will comply with the Flood Damage Prevention Regulations. An addition would then be constructed on the west portion of the house. They have successfully obtained a variance from the Zoning Board of Appeals to raise a portion of the house that does not comply with the side yard setback requirements. He said that the existing building coverage is 1,703 sq. ft. and the proposed building coverage would be 2,460 square feet, which is 19.6% of the lot area. He said that a propane tank would need to be installed for heating and cooking purposes. All structures, including the propane tank, will comply with the Flood Damage Prevention Regulations.

Steven Trinkaus, Professional Engineer, explained that the Storm Water Management Plan does not include retaining storm water runoff because this area is so close to Long Island Sound. Instead, they will be providing storm water quality management by using two rain garden areas that have very well drained soils of sand and gravel so that water will be allowed to filter into the ground. He said that the base flood elevation in a 100 year storm is expected to be 10 feet above Elevation zero (NAVD 1988). The drainage and structure have been designed to comply with all the Flood Damage Prevention Regulations.

There were no comments from the public regarding this matter. The following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

At about 10:00 p.m., Mr. Spain read the following agenda item:

Coastal Site Plan Review #36-B, Flood Damage Prevention Application #34-B, Robert & Amy Rupp, 3 Candlewood Lane. Proposing to construct additions and alterations to the existing residence, remove the existing cottage and perform related site development activities within regulated areas. The subject property is on the north side of Candlewood Lane, approximately 1,000 feet east of its intersection of Hawthorne Road, and is shown on Assessor's Map #62 as Lot #70 and is located in the R-1 Zone.

Jacek Bigosinski, Project Architect, explained that they are proposing to demolish an existing cottage and a portion of the existing house. They would then renovate the rest of the house and construct a garage addition with finished space above it. Part of the modifications will be to make things comply with the Flood Damage Prevention Regulations because everything will be at a higher elevation. There will actually be fewer bedrooms than the current situation. He said that the sanitary sewer line has been installed in parts of this private neighbor association, but not extended to this property. The Health Department has indicated that the applicant must connect to the sanitary sewers if the proposed improvements are carried out. He said that this will create a

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 8 OF 21

hardship due to the length of the connection. Instead of costing a typical \$20,000 to connect, this connection will cost approximately \$260,000 or more, given the very long hook-up distance.

Steven Trinkaus, Professional Engineer, said that the expected flood level in this area is 15 feet above elevation 0.0 (NAVD 1988). Storm water now flows from the roof into the existing lawn. They propose to convert this area from lawn into a very thickly vegetated area. They will use native plants to stabilize the soil and absorb the roof runoff. He said that the septic system works fine under normal conditions. At present, there are 5 bedrooms and when they are finished, there will be 5 bedrooms. He said that there are lots of rocky outcrops on the site, making it difficult to provide a B-100a reserve area. He said that he has had many email exchanges with the Director of Health who insists that the existing on-site septic system be abandoned and the connection to the sanitary sewers be created. Mr. Trinkaus said that the cost creates an extreme hardship for the property owner. He asked that the Commission approve the project with the condition that if there is problem with the performance of the existing septic system now or in the future, then at that point that they be required to connect to the sanitary sewers. Mr. Trinkaus said that if they were only renovating the existing building structure, it would not require connection to the sanitary sewer. He said that it is the new addition that triggers the Health Department to require the connection to the sanitary sewer. He said that they do not know details of the existing septic system because it was built so long ago, but if it is still functioning properly, they should be allowed to continue to use it because they are not adding any bedrooms.

Mr. Ginsberg said it might be appropriate that one option for the Commission would be to close the public hearing and render a decision based on the information provided. Another option would be to continue the public hearing to allow the applicant the opportunity to resolve the septic system/sanitary sewer connection with the Health Department. He said that the Planning & Zoning Commission should not take an action that would supersede the authority of the Health Department. Mr. Hutchison and Mr. Spain said that the Commission does not have the facts or the authority or the expertise to supersede the Health Department. Mr. Trinkaus said that they can try to satisfy the Health Department and present that additional information if the public hearing is continued.

Commission members noted that it might be appropriate for the Commission members to act on the coastal area management issues and note that there is no regrading of the site for the house addition and no increase in the amount of paved area. That way the Commission could act on the application and allow the applicant to resolve the septic system/sanitary sewer connection with the Health Department.

Director of Planning, Jeremy Ginsberg, read aloud the April 25th response from the Connecticut Department of Environmental Protection. They noted that there are numerous coastal resources on the site and that the septic system location or locations are uncertain. They agree with the Darien Director of Health that the sanitary sewer connection should be made at this time.

Property owner Bob Rupp said that if this were just a renovation, this issue of the septic system would not be a concern of the Health Department.

Mr. Ginsberg said that the septic system and sanitary sewer connection issue is up to the Health Department and not the Planning & Zoning Commission. Mr. Rupp said that there are actually two septic systems and that it would be easier to abandon the project than to connect to the sanitary

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 9 OF 21

sewer in the street. Mr. Rupp said that they have already had impacts due to the blasting that is taking place on nearby sites. If he needs to connect to the sanitary sewer, it would require considerably more blasting and would possibly kill many of the old trees that are along the roadway. He said that the cost estimate by the contractor of \$260,000 could easily be increased due to the potential liability caused by damage resulting from the installation of the sewer line.

There was some discussion about whether the public hearing should be continued. There were no comments from the public regarding this matter. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

At about 10:30 p.m., Mr. Spain then read the following agenda item:

Land Filling & Regrading Application #257, Christopher & Margaret Stefanoni, 149 Nearwater Lane. Proposing to allow fill placed adjacent to stone wall on the northerly and westerly boundaries of the property to remain. The subject property is on the west side of Nearwater Lane, approximately 400 feet south of its intersection of Juniper Road, and is shown on Assessor's Map #56 as Lot #23 and is located in the R-1 Zone.

Margaret Stefanoni explained that the stone wall construction around the perimeter of the property was started in 2008. No fill material was brought into the site, but the material that had been excavated for the base foundation of the wall was used to back fill against the wall. This raised the grade on the interior portion of the wall, and when the height of the wall is measured from this new grade, it complies with the 6 foot high limitation. When the height of the wall is measured from the exterior of some portions of the wall, the wall height exceeds 6 feet. When Director of Planning, Jeremy Ginsberg and Zoning Enforcement Officer, David Keating, visited the site and informed the Stefanonis of the problem, construction work on the wall ceased. The property owners have obtained an updated survey to show the existing conditions and have had numerous conversations with the neighbors about the existing wall. None of the neighbors have expressed any concerns of having issues with the wall.

Barry Hammons, P.E., reviewed his letter of March 1, 2001. He concurred that no fill material was brought into the site from the outside except for approximately 8 cubic yards of topsoil. His survey reflects the changes of the grade level. He said that the minor regrading adjacent to the wall does not have any impact on drainage and does not have any adverse impact on the neighbors.

Mr. Ginsberg said that the regrading adjacent to the property line is not exempt from the Zoning Regulations because it is within 15 feet of the property line. Mr. Hammons said that when the wall is measured from the north side (the neighbors' side), the wall is higher than the allowable 6 feet.

Mr. Ginsberg said that Section 362 of the Zoning Regulations deals with the wall limitations and Section 850 of the Zoning Regulations deals with filling and regrading. In this case, the wall would have to be lowered to be no more than 6 feet high measured from the original grade (the neighbors' side) or the applicants must obtain Special Permit approval from the Planning & Zoning Commission to leave the fill in place so that the wall height would be no more than 6 feet as measured from the interior of the wall (where the fill has been placed).

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 10 OF 21

Mr. Hammons confirmed that the entire wall is located on the Stefanoni property and that the slight regrading occurred only on the Stefanoni property. Only about 8 cubic yards of topsoil are needed to finish the job. He said that the grading between the Stefanoni driveway and the wall is about a one on three slope so that it is mowable. He said that construction work on the wall has been suspended since August and they wish to resolve this matter so that they can complete the wall.

Mrs. Cameron said that she noted that the construction of a wall along the front property line (which is not the subject of the application) does limit sight lines when someone is pulling out of the driveway into Nearwater Lane. Mrs. Stefanoni said the wall in the front yard is less than 4 feet in height to make sure that it complies with the Regulations.

Bill Hayes explained that he is a new neighbor to the north and said that he likes the existing wall the way it is. He considers it a “work of art” and is not worried about the view from his side of the wall.

There were no other comments. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Ms. Riccardo and unanimously adopted.

Mr. Spain then read the following agenda item:

GENERAL MEETING (Time Permitting)

Coastal Site Plan Review #261, Flood Damage Prevention Application #28-A, Land Filling & Regrading Application #2-A, Joseph & Kimberly Cesare, 144 Five Mile River Road.

Proposing to construct a single-family residence, garage, guest cottage, and swimming pool and to perform related site development activities within regulated areas. *WITHDRAWN ON 4/28/2011.*

Director of Planning Jeremy Ginsberg noted that this application has been withdrawn.

Discussion, deliberation and possible decision regarding:

Mr. Spain read the following agenda item:

Coastal Site Plan Review #262, Flood Damage Prevention Application #299, Land Filling & Regrading Application #255, Kieran & Tiernan Cavanna, 38 Old Farm Road.

Proposing to demolish a portion of the existing residence, construct additions and alterations to the residence, construct a new detached garage, and perform related site development activities within regulated areas. The subject property is on the south side of Old Farm Road approximately 235 feet east of its intersection with Driftway Lane, and is shown on Assessor’s Map #66 as Lot #84, in the R-1 Zone. *PUBLIC HEARING CLOSED 3/22/2011. DEADLINE TO MAKE DECISION: 5/26/2011.*

The Commission members reviewed the draft resolution regarding this matter.

The following motion was made: That the Commission waive the process of reading aloud each of the draft resolutions because the Commission members have had an opportunity to review the drafts prior to the meeting. The motion was made by Ms. Cameron, seconded by Mr. Hutchison and unanimously approved.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 11 OF 21

The following motion was then made: That the Commission adopt the following resolution to approve the Cavanna project subject to conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 3, 2011**

Application Number: Coastal Site Plan Review #262
Flood Damage Prevention Application #299
Land Filling & Regrading Application #255

Street Address: 38 Old Farm Road
Assessor's Map #66 Lot #84

Name and Address of Applicant: Kieran & Tiernan Cavanna
And Property Owner: 38 Old Farm Road
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 demolish a portion of the existing residence, construct additions and alterations to the residence, construct a new detached garage, and perform related site development activities within regulated areas.

Property Location: The subject property is on the south side of Old Farm Road approximately 235 feet east of its intersection with Driftway Lane.

Zone: R-1

Date of Public Hearing: February 15, 2011 continued to March 22, 2011

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

Publication of Hearing Notices
Dates: February 4 & 11, 2011 Newspaper: Darien News
March 11 & 18, 2011

Date of Action: May 3, 2011 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
May 13, 2011

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 12 OF 21

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted 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 demolish a portion of the existing residence, construct additions and alterations to the residence, construct a new detached garage, and perform related site development activities within regulated areas at 38 Old Farm Road. The subject property is 1.23+/- acres and is served by an on-site septic system and public water supply. A portion of the existing structure would be demolished and new additions will be constructed. The proposed detached garage will be within the flood zone.
2. Some of the proposed work will involve filling and regrading around the proposed structure so that the structure will no longer be in the Flood Zone. The work is also within the 1,000 foot regulated area established by the Coastal Area Management Program.
3. The applicants applied to the Darien Environmental Protection Commission (EPC) because the adjacent watercourse is Tokeneke Brook, which is within the jurisdiction of the Environmental Protection Commission. The Darien Environmental Protection Commission approved this project on February 16, 2011 as part of EPC #1-2011. That approval is hereby incorporated by reference.
4. As noted at the public hearing, storm water runoff from the proposed additions will be accommodated in two rain gardens. The drainage plan addresses water quality issues not water volume issues because the runoff from this site goes directly into a brackish, tidal water body and then to Long Island Sound.
5. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
6. At the public hearing, it was noted that the Connecticut Department of Environmental Protection indicated in their February 10th letter that they find no inconsistencies between the proposed work and the Coastal Area Management Program. It was also noted at the public hearing that the Darien Health Department has approved the new septic system to be constructed as part of this project.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 13 OF 21

7. 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.
8. 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.
9. 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.
10. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
12. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #262, Flood Damage Prevention Application #299, and Land Filling & Regrading Application #255 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other site development activity shall be in accordance with the following plans as submitted to the Commission:
 - Zoning Location and Topographic Survey prepared for Kieran J. M. Cavanna Tiernan Cavanna 38 Old Farm Road, by William W. Seymour & Associates, dated April 30, 2010 and last revised December 17, 2010 (in color).
 - Zoning Location and Topographic Survey prepared for Kieran J. M. Cavanna Tiernan Cavanna 38 Old Farm Road, by William W. Seymour & Associates, dated April 30, 2010 and last revised February 21, 2011. (This plan shows the proposed grading and the area to be removed from the SFHA).
 - Site Drainage Plan, Proposed Drainage Plan on Property of Kieran & Tiernan Cavanna 38 Old Farm Road, by Frangione Engineering, LLC, dated January 7, 2011, Sheet No. S1.
 - Details & Notes, Proposed Drainage Plan on Property of Kieran & Tiernan Cavanna 38 Old Farm Road, by Frangione Engineering, LLC, dated January 7, 2011, Sheet No. S2.
 - Residence of: Cavanna 38 Old Farm Road, by ERI Building & Design, LLC, last revised 1-06-11, Drawing No. 3-8 (1st floor Plan).
 - Residence of: Cavanna Garage 38 Old Farm Road, by ERI Building & Design, LLC, last revised 1-06-11, Drawing No. 1-2 (garage).
- B. The Zoning and Building Permits for the foundation only for the proposed additions to the residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 14 OF 21

illustrating the location and elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or new foundation are within the flood hazard zone. Only then can the Zoning and Building Permits be obtained for the house above the foundation level. The applicant is responsible for obtaining the Letter of Map Revision (LOMR) or similar approval from FEMA. The applicant shall provide a copy of this approval to the Commission for the file prior to the use of, or request for the issuance of a Certificate of Occupancy for the proposed residence.

- C. During the filling, regrading, and site work, the applicant shall utilize the sediment and erosion controls illustrated on the Site Drainage Plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including tree protection measures, as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has 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. Due to the minor nature of this project, the Commission hereby waives the requirement for a performance bond.
- E. Prior to the issuance of a Certificate of Zoning Compliance for the proposed work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 38 Old Farm Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well, within 60 days of this approval and prior to the start of any filling or regrading work.
- F. The applicant shall install the drainage system as shown on the submitted Site Drainage Plan (in Condition A, above). The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies). If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at such owner's expense and as quickly as possible.
- G. Once the project is complete, and prior to May 3, 2012, the applicant shall certify in writing and/or photographs, and with an 'as-built' survey map that all work has been properly completed in accordance with the approved plans. This shall include written certification by the project's professional engineer that the drainage facilities have been installed according to the approved plans, and that the construction complies with the Flood Damage Prevention Regulations.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 15 OF 21

- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, the Darien Health Department.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (May 3, 2012).

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

Mr. Spain read the following agenda item:

Special Permit Application #11-Q, Land Filling & Regrading Application #258, Ox Ridge Hunt Club, 512-516 Middlesex Road. Proposing to fill, excavate, and regrade in order to construct a 225' x 325' riding ring and perform related site activities.

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

Ms. Riccardo suggested several modifications to clarify the draft resolution. All Commission members agreed with the modifications.

The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Ms. Riccardo and unanimously approved. The resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 3, 2011**

Application Number: Special Permit Application #11-Q
Land Filling & Regrading Application #258

Assessor's Map #6 Lot #149

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 16 OF 21

Name and Address of Applicant and Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, 2nd Floor
Darien, CT 06820

Name and Address of Property Owner: Ox Ridge Hunt Club, Inc.
512-516 Middlesex Road
Darien, CT 06820

Activity Being Applied For: Proposing to fill, excavate, and regrade in order to construct a 225+/-' x 350+/-' riding ring and perform related site activities.

Property Location: The subject property is on the southeast corner formed by the intersection of Middlesex Road and Ox Ridge Lane.

Zone: R-2

Date of Public Hearing: April 26, 2011

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

Publication of Hearing Notices
Dates: April 15 & 22, 2011

Newspaper: Darien News

Date of Action: May 3, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: May 13, 2011

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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

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

1. The Ox Ridge Hunt Club proposes to fill, excavate, and regrade in order to construct a 225+/-' x 350+/-' riding ring and perform related site activities. The riding ring would be located on the

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 17 OF 21

north side of the existing driveway, and would be about 215 feet from Middlesex Road. It is located more than 265 feet from the nearest residential property. During the public hearing, the applicant's representative noted that as part of this application, landscaping and related work will be done in the Middlesex Road area between the existing Ox Ridge driveway and Saddle Ridge Road.

2. It was explained that as part of the riding ring installation, the Club would be removing the clay and topsoil from the area, and replacing it with stone and stone dust, including coarse aggregate and crushed stone. The new materials were described as being more pervious than the existing conditions.
3. The submitted plans show the details of the riding ring, as well as existing and proposed grades of the riding ring. A Stormwater Management Report was prepared for this project, and a professional engineer, Todd Ritchie of GHD, spoke at the public hearing on behalf of the application. As noted in the application materials, the only drainage structure that would need any maintenance is the outlet control structure in the southeast corner. The Commission notes with respect to the stormwater management system proposed herein and required by the Commission, there is a need for the property owner to file a Notice of Drainage Maintenance Plan outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
4. As part of this application, the Club proposes to plant one weeping willow near the corner of Saddle Ridge Road and Middlesex Road, and sixteen giant green arborvitaes behind the stonewall parallel to Middlesex Road between the existing main entrance driveway and Saddle Ridge Road. This is outlined within an April 14, 2011 letter from Wilder Gleason to Jeremy Ginsberg.
5. At the public hearing, two neighbors from Saddle Ridge Road spoke regarding the proposal. They mentioned their concern with drainage, and that as part of a prior application they had concern about the appropriateness of the plastic, artificial hedge inserts within the chain link fence located in a highly visible location along Middlesex Road.
6. There are no plans to increase the membership or change the existing uses or activities on-site as part of this application. There will be no increase in the programming, the number of horses, activities, use of space, or membership at the Club.
7. Per Section 1005b of the Darien Zoning Regulations, the Commission finds that the location, nature and size of the proposed riding ring, and the nature and extent of the relocated fence and modified landscaping near Middlesex Road will be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 18 OF 21

9. 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. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
10. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #11-Q and Land Filling and Regrading Application #258 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the new riding ring shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Ox Ridge Hunt Club Equestrian Center Proposed Riding Ring, March 22, 2011 by Equestrian Services International (ESI), all plan sheets dated 3/17/11.
 - i. Grading and Drainage Plan--Sheet C2 of 8
 - ii. Earthwork Sequence Plan—Sheet C4 of 8
 - iii. Grading and Drainage Details—Sheet C5 of 8
 - iv. Specifications and General Notes—Sheet C6 of 8
 - v. Erosion Control Plan—Sheet C7 of 8
 - vi. Erosion Control Details—Sheet C8 of 8.

Details of the changes to the Middlesex Road area landscaping are outlined in the April 14, 2011 letter from Wilder Gleason to Jeremy Ginsberg and explained and showed on the March 21, 2011 letter to Neighbors. Completing the landscaping is an integral part of this approval.

- B. As noted at the public hearing by the applicant's representative, a portion of the existing chain link fence along Middlesex Road will be moved to the perimeter of the paddle tennis court parking, and sixteen arborvitae planted inside the existing stone wall, and a willow tree will be planted near the corner of Saddle Ridge Road and Middlesex Road. As part of this work, some damaged and/or dead trees may be removed. There shall be an on-site meeting with a representative of Planning and Zoning Department staff prior to work, to finalize the details of the trees to be removed and the new trees to be planted on the property. That work is an integral part of this application, and shall be completed by July 30, 2011.
- C. Because of the limited scope of the work outlined within the application, the Commission hereby waives the requirement for a Performance Bond.
- D. The Commission notes that there will be no new impervious surface created as part of this application, and the total amount of impervious surface on the property is unchanged. Because of the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for a detailed stormwater management per Section 888a(3) of the Darien Zoning Regulations.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 19 OF 21

- E. By July 3, 2011 (within the next 60 days) and prior to the start of any filling or regrading work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. This plan shall include both the existing and proposed drainage system. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of the Ox Ridge Hunt Club/512-516 Middlesex Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- F. A final, written certification is hereby required to be submitted by September 30, 2011, certifying that all of the regrading and on site stormwater management have been installed in compliance with the approved plans, and that the Middlesex Road work has been completed per the information submitted as part of this application. In addition, a Professional Engineer shall certify in writing that the proposed riding ring grading has been properly completed.
- G. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plan referred to in Condition A above, and 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.
- H. There is no plan to increase the membership or change the existing uses or activities on-site as part of this application. There will be no increase in the programming, the number of horses, activities, use of space, or membership at the Club.
- I. 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.
- J. 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.
- K. 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 (May 3, 2012). This may be extended as per Sections 858 and 1009.

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

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 20 OF 21

by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the start of the work in order to finalize this approval.

Mr. Spain read the following agenda item:

Coastal Site Plan Review #263, Flood Damage Prevention Application #300, Ralph Reynolds, 0 Delafield Island Road. Request for clarifications.

Commission members reviewed the request to clarify the adopted resolution. The dock will be formally shared by two of the three properties owned by the Reynolds family. The Reynolds have not surrendered the right to construct a dock on the third property.

Mr. Hutchison said that it is appropriate that the Commission's resolution be consistent with the decision rendered by the Connecticut Department of Environmental Protection. Ms. Cameron said that she believed that all three properties should be limited so that there would only one dock serving all three sites.

After further discussion, the following motion was made: That the Commission has reviewed the letter requesting the clarification of the resolution, and concurs with the clarifications as noted in the letter. The motion was made by Mr. Hutchison and seconded by Mr. Voigt. Voting in favor were Messrs. Hutchison, Spain and Voigt. Abstaining were Ms. Cameron and Ms. Riccardo. The motion passed by a vote of 3-0-2.

Mr. Spain read the following agenda item:

Coastal Site Plan Review #237-B, Flood Damage Prevention Application #263-B, Abigail Knott, 70 Five Mile River Road. Request for modification.

The applicant has requested a clarification regarding any potential new owners that may own the property in the future and the restrictions that would be placed on the Land Records. Commission members reviewed the requested modifications and concurred.

The following motion was made: That the Commission agrees that the approval for this project be modified in accordance with the requested clarification letter from Attorney Wilder Gleason. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

Mr. Spain read the following agenda item:

Land Filling & Regrading Application #237, Karl & Elisabeth Puehringer, 51 Phillips Lane. Request for extension of time to commence project.

Commission members reviewed the request for the extension. Mr. Keating said that the contractor will be using a different brand of construction blocks that are actually smaller than the large blocks that were originally proposed. The size, shape and location of the retaining walls will remain the same, but the materials to build the retaining wall will be a greater number of smaller blocks.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 3, 2011
PAGE 21 OF 21

The following motion was made: That the Commission grant the requested extension so that the permit shall be made valid until April 6, 2012. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Discussion and deliberation ONLY on the following matters:

Coastal Site Plan Review #264, and Land Filling & Regrading Application #256, Robert & Kimberlee Ageloff, 18 Crane Road. Proposing to: construct additions and alterations to the existing single-family residence with associated stormwater management; construct a replacement pool with associated patio; install a new driveway and construct a driveway expansion area; and perform related site development activities within a regulated area.

Business Site Plan #200-E/Special Permit, Tokeneke Properties, LLC, 23-33 Tokeneke Road. Proposing to convert a portion of the existing second floor from office use to six apartments, with two of those apartments being designated as below market rate units as required by Section 580 of the Darien Zoning Regulations.

Regarding pending applications, Commission members were asked to contact the staff if they had any comments regarding 18 Crane Road or 23 Tokeneke Road. Staff will draft resolutions in the coming weeks.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Ms. Cameron, seconded by Ms. Riccardo and unanimously approved. The meeting was adjourned at 11:12 p.m.

Respectfully Submitted,

David J. Keating
Assistant Planning & Zoning Director

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