

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 7, 2011**

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Cameron, Hutchison

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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

PUBLIC HEARING

Continuation of Public Hearing regarding 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. *HEARING OPENED 5/3/2011. DEADLINE TO CLOSE HEARING IS 6/7/2011, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Robert Maslan represented the applicant and said that since the previous public hearing, the applicant has addressed the issues raised by the Town's Traffic Consultant, Michael Galante. He said that additional information had been provided and that information appears to satisfy the Town's consultant. That information included more traffic counts and information from the Connecticut Department of Transportation and from the Darien Police Department.

Attorney Maslan said that Penny Glassmeyer has had numerous discussions with the neighboring property owners and has reached an agreement regarding the landscaping and buffer area. The new arborvitaes to be planted along the property line will measure at least 12 feet tall behind the proposed building. New five inch caliper maple trees will be installed in addition to large shrubs. A revised landscaping plan dated June 4, 2011 has been developed by Carol Guthrie and was submitted to the Commission.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 2 of 25

Mr. Ginsberg said that the view from the neighboring properties will be somewhat minimized, due in part to the change in grade which will be accommodated on the site by a large retaining wall. The new landscaping will be planted on top of that large retaining wall and he wondered if something could be done to improve the view of the retaining wall from the Route One side.

Carol Guthrie explained that vines can be planted at the base of the wall so that those vines climb up. Also, climbing hydrangea can be planted to minimize the apparent size of the wall.

Mike Galante of Frederick Clark Associates reviewed his letter of June 7, 2011 that was already in the record and had previously been distributed to the Commission members.

Jeremy Ginsberg read aloud the comments from the Connecticut Department of Environmental Protection dated March 28, 2003. They found that no portion of the proposed amendments to the Regulations or plans were inconsistent with the Coastal Area Management Act. He also read aloud the Southwestern Regional Planning Agency comments of the April 5th email. They concluded that the proposed development is not likely to have any inter-municipal impacts. He also noted that the Fire Marshal had some comments that the applicant will need to resolve.

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

Chairman Conze read the following agenda item:

Coastal Site Plan Review #226-A, Flood Damage Prevention Application #250-A, Land Filling & Regrading Application #260, PL Properties, LLC, 3 Purdy Lane. Proposal to repair existing sea wall with some filling and regrading adjacent to the wall, enhance existing tidal wetlands, and perform related site activities within regulated areas. The subject property is on the south side of Boston Post Road, approximately 465 feet east of the Stamford City Line, and is shown on Assessor's Map #54 as Lot #33, in the R-1/3 Zone.

Attorney Terry Coates, representing PL Partnership LLC, explained that this is a 2.5 acre parcel in the R-1/3 Zone. It is adjacent to Holly Pond and it contains two houses on the site. The current application is not to divide or further develop the property. The current application involves repairing and improving of the stone wall adjacent to Holly Pond and the enhancement of the tidal wetlands in and adjacent to Holly Pond.

Mr. Coates reviewed the Certificate of Permission from the Connecticut Department of Environmental Protection. A copy was submitted for the Commission's record. He said that he is applying to the Planning & Zoning Commission under the Coastal Area Management Act and due to the slight regrading of the wall and the proximity to Holly Pond. He said that all of this work has been approved by the DEP. He said that the homes were constructed on the site sometime between 1860 and 1908 and the seawall or stone wall adjacent to Holly Pond was constructed prior to 1930. He said that that the stone wall was falling apart and there are several sink holes in the lawn area landward of the wall. This soil has been eroding under the wall and into Holly Pond. If no action is taken, eventually the wall will fail and cause further erosion to enter into the pond. He said that in accordance with the Connecticut DEP approved plan, the stone wall will be rebuilt and a stone cap

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 3 of 25

placed on top of it. The top of that stone cap will be at Elevation 7.5. The cap will protect the repaired sea wall or stone wall. Scuppers or flood openings will allow water to flow through the wall at designated locations rather than eroding through the wall at unknown locations. He said that approximately 300 cubic yards of material must be excavated from the base of the stone wall and a comparable amount of stone material must be imported to form the non-eroding base of the wall. The excavated soil will be removed from the site. Approximately 300 cubic yards of back-fill gravel material will be brought to the site. They will only be working on 100 foot lengths of the wall at a time. Before additional wall is disturbed, a comparable distance of repaired wall must be stabilized. He said that the stockpile areas will be located upland of the seawall, but there will be no permanent change of grade on the landward side of the seawall, other than smoothing out the ruts as required by the DEP. He said that as part of the plan review, the Connecticut DEP wanted the tidal wetlands adjacent to the pond to be properly restored. This will involve removal of the fragmites plants using herbicides and removing some of the soil in that area. By lowering the grade of that area, the land will be subject to more frequent inundation by the salt water and thus the fragmites will not be able to survive. He said that the change of grade involves lowering the ground level by approximately one foot. Mr. Coates explained that during the construction process and while the new vegetation and the restored wetlands is being allowed to grow, they will need to install goose exclusion fence to protect the young vegetation. He also noted that a special turbidity curtain, a silt fence supported on the top by floats and held down in the water by weights, will be installed. During this tidal wetland restoration and stone wall repair project, it will look like they are working in Holly Pond.

The report from the Southwestern Regional Planning Agency was read aloud. They find no inter-municipal impacts due to the project. Also, the comments from the Connecticut Department of Environmental Protection were read aloud and they find that the project is consistent with the Coastal Area Management Act. It was noted that all of the work is located within a flood zone, but it is repair and improvement of the existing site conditions and erosion problems. There is no building or construction activity proposed.

Mr. Ginsberg said that the Darien Environmental Protection Commission has revised this project and has permitted the project to proceed. He did note that during the work time, it will appear that the work is taking place beyond this existing stone wall and in Holly Pond. No one should be surprised when they see personnel working on the water side of the stone wall.

Attorney Coates said that the Connecticut Department of Environmental Protection required that the applicant show the potential subdivision of the property. That potential subdivision is shown on some of the drawings required by and submitted to the DEP, but the potential subdivision is not part of the current application to the DEP or to the Planning & Zoning Commission. The only work involved will be the repair of the seawall, and the restoration of the tidal wetland. Mr. Coates also noted that the upland buffer planting is not part of this application.

There was some discussion regarding the removal of the fragmites plants. It was noted that to remove the root mass, they may need to excavate approximately 9 inches of soil.

Mr. Spain said that it might be necessary to reprint the maps to more clearly show the existing grades upland of the wall so that when the project is completed and the as-built maps are submitted, it will be easier to compare the previous grade and the final grades after the implementation.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 4 of 25

Tim DeBartolomeo of Roberge Associates said that the map is very accurate, to one-tenth of a foot. He said that he will reprint the maps so that it will be easy to compare the existing grades with the as-built topography.

Dominic Briganti of Boston Post Road said that his review of the map indicates that it is very hard to depict where the existing contour lines are and that it will be very important to have a good as-built map to compare the before and after topography.

There were no further comments. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Flood Damage Prevention Application #251-A, Roy & Susan Mackenzie, 30 Driftway Lane. Proposing to construct additions and alterations to the existing single-family residence, with associated stormwater management, and perform related site development activities within a regulated area. The subject property is on the east side of Driftway Lane, approximately 600 feet north of its intersection with Old Farm Road, and is shown on Assessor's Map #66 as Lot #126 and is located in the R-1 Zone.

Mr. Grisanti represented the applicant and explained that they want to make renovations to the existing house and then construct small additions that will expand the living space. As part of the project, they will install gutters on the entire house and re-landscape the property. Part of the project also involves removing part of the existing paved driveway. The entire project will result in an improvement of the drainage. He said that they have discussed the project with all of the neighbors, and all but one of those neighbors support the project.

Mr. Ginsberg said that he discussed the application with the Public Works Department who concurred that less pavement will be an improvement and adding storm drainage facilities on the site to accommodate the runoff water from the gutters will be adequate. He also noted that the project is outside of the jurisdiction of the Darien Environmental Protection Commission.

Mr. Ginsberg reviewed the Memorandum of May 31, 2011 from David Knauf of the Darien Health Department. He said that the issues posed by the Health Department have been worked out. Mr. Grisanti said that the surveyor had marked on the map the approximate location of the septic system, but the Health Department wanted the exact location to be marked. That the exact location of the septic system was found in the Health Department records and the maps have been revised accordingly

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

GENERAL MEETING

Chairman Conze started the General Meeting and read the following agenda item:

Business Site Plan #267-A/Special Permit, Town of Darien, 126 Ledge Road. Proposing to construct a building for fire training purposes, and perform related site development activities. The subject property is on the north side of Ledge Road, approximately 1,100 feet west of its intersection with Boston Post Road, and is shown on Assessor's Map #39 as Lot #21 and is located in the SB Zone.

Tim O'Brien of the Darien Fire Commission said that the drill tower constructed of concrete in 1984 has been a very useful tool for the training of fire fighters. An additional building is now proposed that will complement the use of the tower. He said that the tower has been burned so many times, it has been reinforced and is now in good condition. The proposed structure will look more like a house and it will be located approximately 250 feet to the west of the existing fire tower. Access will be provided all around the entire proposed building so that the fire fighters can attack the fire from any angle. The existing fire tower and the new fire building will provide adequate training facilities for the three volunteer fire companies in the community.

Mr. Ginsberg noted that there are times when the Town hosts additional fire companies to train within the Town's facilities. In those cases, the Darien Fire Departments are always in charge and the other fire companies get training time.

There were no comments from the public regarding the proposal. The following motion was made: That the Commission approve the construction of an additional fire training building adjacent to the existing fire tower at 126 Ledge Road. Development is to be in accordance with the submitted plans. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #266, Deborah McLean, 45 Contentment Island Road. Proposing to install a new patio and renovate and partially replace a portion of a residence on the existing foundation and perform related site development activities within a regulated area. The subject property is on the east side of Contentment Island Road, approximately 1,500 feet south of its intersection with Shennamere Road, and is shown on Assessor's Map #68 as Lot #15 and is located in the R-1 Zone.

Attorney Bruce Hill represented the applicant and explained that the residence has been in the McLean family for many years. It is now owned by two brothers and one sister and the plan is to renovate and reconstruct the existing house. A small portion of the existing house and proposed addition is within 100 foot coastal review area that is subject to the Planning & Zoning Commission's action, not just staff review. He said that no portion of the existing house is within the flood hazard zone because it is adequately elevated above the shoreline. He said that a portion of the proposed terrace work is within the 100 foot coastal review area.

Jeremy Ginsberg read aloud from the letter of May 31st from David Knauf of the Darien Health Department. Mr. Hill explained that they are working with the Health Department on a plan to

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 6 of 25

provide a code compliant replacement area, if the septic system does not work adequately. He said that the existing structure contains 6 to 7 bedrooms and the renovations will result in the existing home containing 5 bedrooms. There will also be at least one less bathroom. He said they will continue to work with the Health Department to resolve all of those issues before a Zoning Permit is requested.

Mr. Ginsberg read aloud the comments from the Department of Environmental Protection which indicated that the project is not inconsistent with the Coastal Area Management Act. In response to questions, Mr. Hill said that the replacement of the septic system could not possibly be located between the house and the shore due to the soil conditions in that area. If the septic system ever needs to be replaced, it will be located farther from the shore than the existing residence.

Mr. Conze said that the Commission should approve the project with the condition that final Health Department approval must be obtained. The following motion was made: That the Commission approve the coastal area management aspects of the project and note that the Zoning and Building Permits cannot be obtained until final Health Department approval is obtained. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #228-B/Special Permit, Little Red Schoolhouse/Estia's Little Kitchen, 21 Tokeneke Road, CBD Zone.

Request to install a handicap access ramp for the back door of the existing building.

Chuck Thomas said that they are proposing to add a handicapped access ramp on the Center Street side of the existing building. The proposed ramp would be a wooden structure painted white. It would protrude into the plaza type area and landscaping would be provided to soften the view of the structure. He said that the owner will be responsible for the implementation and maintenance of the ramp.

Mr. Spain noted that the recently approved use for the first floor was a café type structure, but that plan did not include any handicapped access ramp.

Mr. Ginsberg said that the Architectural Review Board has not yet seen any plans for the design of the ramp and that the ARB will not be meeting until June 21st. Mr. Ginsberg noted that the plans for the café did not include a ramp because the applicant was requesting a waiver of the handicap ramp from the State of Connecticut Building Official. That request for a waiver was not granted because the State Official concluded that the change of use must accommodate handicap access requirements. He also noted that the odor control for the cooking facilities will be located within the building and then the clean air will be vented out through the roof. He said the trash collection and pick-up was also part of the previously approved use. He said that he understands that the new café will be serving breakfast, lunch and dinner and that the trash will need to be picked up 6 days per week. He also noted that a beer and wine license is being requested for the café and handicapped access is needed in order to obtain those licenses from the State.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission approve the proposed handicapped access ramp subject to review of the design and architectural features by the Architectural Review Board. If the

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 7 of 25

ARB approves the design, then the approval of the Commission is final. If the ARB does not approve the design, then the applicant must return to the Planning & Zoning Commission for further review. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit #117-C, Noroton Presbyterian Church, 2075 Boston Post Road.
Request to install a pergola/trellis over the existing sandbox.

It was explained that the proposed changes include construction of a trellis type structure over the existing sandbox play area. The trellis-like structure will be approximately 20 feet by 20 feet and will provide shade for the play area. The Commission members reviewed the application materials. The following motion was made: That the Commission approve the construction of the 20 foot by 20 foot trellis type structure over the sandbox and play area. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #265, Baywater 17 OKHS, LLC, 17 Old King's Highway South, OB Zone. Proposal to install flagpole.

Mr. Ginsberg explained that the proposal is to install a flagpole on the front portion of the site in accordance with the submitted plans. Commission members reviewed the plans. The following motion was made: That the Commission approve the installation of the flagpole in accordance with the submitted plans. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Discussion, deliberation and possible decisions regarding:

Proposed Amendments to the Darien Zoning Regulations (#4-2011), Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259, Hunter Gregory Realty Corp., 599 Boston Post Road. Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. Zoning Regulation amendments are proposed to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria. *PUBLIC HEARING CLOSED ON 5/10/2011. DEADLINE TO MAKE DECISION IS: JULY 14, 2011 UNLESS AN EXTENSION OF TIME IS GRANTED BY APPLICANT.*

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

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 8 of 25

Mr. Spain had several comments and clarifications to the draft motion. Commission members agreed with his suggestions. The following motion was then made: That the Commission adopt the corrected, clarified Resolution to approve the project. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 7, 2011**

Application: Proposed Amendments to the Darien Zoning Regulations (#4-2011)
Special Permit Application #266, Site Plan Application #279
Land Filling & Regrading Application #259
Hunter Gregory Realty Corp., 599 Boston Post Road

Street Address: 599 Boston Post Road
Assessors Map #14 Lot #35

Name and Address of Applicant: Hunter Gregory Realty Corporation
274 Riverside Ave, 2nd floor
Westport, CT 06880

Name and Address
of Property Owner(s): 599 Boston Post Road, LLC
173 Bridge Plaza North
Fort Lee, NJ 07024

Name and Address of
Applicant's Representative: Amy Zabetakis, Esq.
Rucci Burnham Carta & Carello, LLP
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. Zoning Regulation amendments are proposed to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria.

Subject property: The subject property is on the northeast corner formed by the intersection of Brookside Road and Boston Post Road.

Zones: DB-2 and R-1/2

Date of Public Hearing: April 26, 2011 continued to May 10, 2011
Deliberations held on May 24, 2011 and June 7, 2011

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

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 9 of 25

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

Newspaper: Darien News

Date of Action: June 7, 2011

Amendments to the Darien Zoning Regulations: ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT TWELVE NOON.

Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259, Hunter Gregory Realty Corp., 599 Boston Post Road.

Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. **GRANTED WITH STIPULATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT 12:01 PM.**

Scheduled Date of Publication of Action: June 17, 2011
Newspaper: Darien News

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

1. The subject applications consists of two parts:
 - a) Zoning Regulation amendments to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria.
 - b) To convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. The first part of this Adopted Resolution addresses part “a” of the application.
2. On page 9-5 of the Town Plan of Conservation & Development, Recommendation #13 is:

13. As trends change through time, the Commission should consider methods to accommodate such in the Darien Zoning Regulations. Examples include, but are not limited to: the provision of day care; wireless telecommunications; home occupations, senior housing developments, cluster housing, hotels, and larger condominiums. The Zoning Regulations should continue to be reviewed to ensure that they meet the changing demographic needs of the community, while maintaining existing community character.

The Commission notes that there is now one other Assisted Living Facility/Independent Living Facility in Darien, at Atria of Darien at Ledge Road. There are no Alzheimer’s units/Memory Care Facilities as part of that project, nor anywhere else in Darien. It is clear that the provision of Memory Care Facilities in the DB-2 Zone would serve a community need, while maintaining existing community character.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 10 of 25

3. The Commission finds that the proposed zoning regulation amendments are consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS WITH MODIFICATIONS the ***Proposed Amendments to the Darien Zoning Regulations*** WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT TWELVE NOON, as revised herein:

The approved wording is as follows:

New wording in bold, deletions in strikeout:

Add to Definitions within Section 210, placing this new definition in alphabetical order:

Memory Care Facility (MCF): A managed residential community consisting of private residential units and providing assistance with activities of daily life such as meal services, laundry service, housekeeping, social activities, transportation and personal services in a group setting to persons with Alzheimer's disease and other forms of permanent memory impairment. A MCF is not a nursing home or convalescent facility as defined by State of Connecticut Regulations.

Amend Definition of Private Residential Unit within Section 210 to include Memory Care Facility:

Private Residential Unit: Any room or group of rooms devoted to the exclusive use or occupancy of one or more residents of an Independent Living Facility (ILF), Assisted Living Facility (ALF), **Memory Care Facility (MCF)**, or combination thereof. Since common kitchen and dining facilities are provided for all residents within the ALF and/or ILF, a private residential unit shall not be considered a dwelling unit even though it may have a small kitchenette facility for occasional use by the resident(s). Because these are not dwelling units, an ALF or ILF may not be converted to or sold as a common ownership interest type dwelling.

Add to the end of Section 624 a new "i".

624. **Principal Uses Requiring Special Permits**

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Internal retail sales uses limited specifically to bulky products or goods such as furniture, carpeting and similar items generally requiring convenient or direct access to the customer's motor vehicle.
- b. Commercial sales and service generally requiring external storage or activity.
- c. Personal service businesses.
- d. Indoor recreation facilities.
- e. Clubs or lodges.
- f. Business and professional offices over 5,000 square feet of gross floor area, except that medical offices shall be provided with parking spaces in accordance with Subsection 904 (l).
- g. Protected Town Landmarks.
- h. Dwelling units located on second floor of existing buildings.
- i. **Assisted Living Facility, Memory Care Facility or a combination thereof.**

Add a new subsection 627 entitled, “Assisted Living Facility (ALF) and Memory Care Facility (MCF)”.

627. Assisted Living Facility (ALF) and Memory Care Facility (MCF)

- a. An ALF, MCF or combination thereof shall include common rooms for use by the occupants such as living rooms, laundry, entertainment facilities, dining areas, beauty parlor, library, and kitchen facilities. An ALF MCF or combination thereof shall also include administrative offices, service facilities, and areas for wellness, periodic medical examination, therapy, or similar uses.**
- b. All Area and Bulk Requirements and Special Controls in Sections 625 and 626 shall control.**
- c. The gross floor area of a private residential unit in an ALF, MCF or combination thereof shall be not less than 320 square feet.**
- d. Each ALF, MCF or combination thereof shall be connected to public sanitary sewers and served by public water supply.**
- e. At least 300 square feet of usable open space shall be provided for each private residential unit. The Planning and Zoning Commission may require that a conservation easement be conveyed for this required open space. Some or all of the open space may be located in an adjoining zone at the discretion of the Planning and Zoning Commission.**
- f. To accommodate the parking needs of the residents, visitors, and staff providing services to the occupants, the following minimum off-street parking shall be provided: one space for each employee per maximum shift; plus 0.33 spaces for each ALF unit and 0.25 spaces for each MCF unit.**
- g. Off-street parking design standards of Sections 226 and 900 shall be applicable.**
- h. At least one off-street unloading facility shall be provided per Sections 909.1c and 909.2a-g.**

The Commission has adopted the applicant’s zoning regulation amendments largely as proposed, with the principal modification to the proposal being the specific definition wording of Private Residential Unit being amended to show how Memory Care Facility would included be in the definition.

The second part of this Adopted Resolution addresses part “b” of the application—the Special Permit, Site Plan, and Land Filling and Regrading Applications.

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

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 12 of 25

- the proposed use and activities must comply with all provisions of Sections 620, 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 plans, and the statements of the applicant and applicant's representatives 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.
1. As shown on the submitted Property and Topographic Survey by Redniss & Mead, the subject property is 1.56+/- acres, and is comprised of two parcels. The front property which includes a three story building is split zoned, with DB-2 in the front 150 feet of that property, and R-1/2 in the remainder of that property. It is served by a single driveway access from Boston Post Road, with parking underneath the building. The rear property, shown on the Survey as Parcel 2, currently has a one-story, single-family residence, with a driveway access from Brookside Road. Both properties are served by public water and sewer.
 2. The subject building at 599 Boston Post Road was previously used as Mediplex, a convalescent home—a legally nonconforming use in the DB-2 Zone. It includes a total of approximately 50,895 gross square feet of floor space on three levels, with 17,110 gross square feet of basement level parking. The building will be converted to a combination Assisted Living Facility (ALF) and Memory Care Facility (MCF). The submitted floor plans show 66 total units proposed. These units are not apartments or dwelling units with kitchen or cooking facilities. They are more like oversized dormitory rooms or hotel suites, which allow privacy without being separate dwelling units. Of those, 37 are "Memory Care" units--27 are Alzheimer's Care units (of those 2 are one bedroom, and 25 are studios); and 10 are "horizons" units (of those, 3 are one-bedroom and seven are studios). The remaining 29 units are proposed to be traditional assisted living units (of those, 4 are one-bedroom and 25 are studios). The basement will be used for parking, and also will include a loading space, trash area, storage area, and elevator room.
 3. The existing single-family residence on Brookside Road is proposed to be razed as part of this application. The existing driveway serving that property would be converted to emergency access only, and gated off. The remainder of the property would be converted to walking paths and stormwater management, which would be part of the ALF/MCF Special Permit use.
 4. At the public hearing on this matter, no neighbors spoke in opposition to the application.
 5. The Architectural Review Board (ARB) approved this project at its meeting on April 19, 2011. That approval is hereby incorporated by reference. The existing exterior of the building will be substantially renovated in accordance with the submitted plans. Part of the renovation includes parapet walls on the roof to conceal, from all sides, all of the HVAC equipment that will be located on the roof.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 13 of 25

6. The existing building has a parking lot underneath it, and all parking on-site is located within that underground parking. The submitted Basement Plan (Sheet A-0.0) shows a total of 35 parking spaces. That total amount of parking for the proposed number of units complies with the new zoning regulations approved herein regarding these types of facilities. Based upon the testimony at the public hearing, the Commission believes that this amount of parking is sufficient for the proposed use. However, it was noted at the hearing that there may be special events or holidays, at which larger than normal numbers of visitors are expected. At the public hearing, the applicant noted that it would pursue parking alternatives to avoid on street parking during these occasional high demand events.
7. As part of this application, a new drop off area is proposed from Boston Post Road. The Commission believes this is an integral part of this application, to minimize any traffic congestion and safety issues presented by UPS and FedEx and other delivery vehicles parking on Boston Post Road in front of the subject property. Because this new drop-off area will require a new street opening on Boston Post Road, review and action by the State of Connecticut DOT is required.
8. The Commission finds that in accordance with Section 627e of the Darien Zoning Regulations, the required open space for this project may be located in the rear of the building, in the adjacent R-1/2 zone. That open space will include walking paths, a small fountain, low walls, residential style lighting, plantings and stormwater management. No buildings or utilities are proposed and none are permitted. The existing residence now on that property will be razed, as noted above.
9. 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 of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
10. All garbage collection areas will be in the basement of the property. There are no Dumpsters or other garbage cans proposed for any areas other than the basement.
11. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
13. The design, location, and specific details of the proposed use and site development, as modified and approved herein, 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.
14. The elements of the Site Plan, submitted as part of the application, AS GRANTED HEREIN, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that **Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259**, to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other site activity shall be in accordance with the following plans as submitted to and reviewed by the Commission, entitled:
- Site Plan depicting 599 Boston Post Road prepared for Maplewood at Darien, by Redniss & Mead, scale 1"=20', dated 3/21/11 and last revised 5/9/2011, Drawing No. SP-1.
 - 599 Boston Post Road prepared for Hunter Gregory Realty Corporation, by Redniss & Mead, dated 3/21/11:
 - Site Grading & Utility Plan, scale 1"=20', Drawing No. SE-1;
 - Sediment & Erosion Control Plan, scale 1"=20', Drawing No. SE-2;
 - Notes & Details, not to scale, Drawing No. SE-3;
 - Details, not to scale, Drawing No. SE-4.
 - Maplewood at Darien, LLC, 599 Boston Post Road, by Stein | Troost Architecture, dated April 26, 2011, First Floor Plan, Sheet A-1.0.
 - Planting Plan, Maplewood, by DiDona Landscape Architects Associates, scale 1"=20', dated 03.21.11, Sheet L-1.
 - Landscape and Lighting Details, Maplewood, by DiDona Landscape Architects Associates, scale 1"=20', dated 03.21.10 (sic), Sheet D-1.
 - Landscape and Lighting Details, Maplewood at Darien, by DiDona Landscape Architects Associates, scale 1"=20', dated 04.05.10 (sic), Sheet D-2.
- B. All utilities serving the 599 Boston Post Road property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- C. Since there is no new public or private road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. During events for which large numbers of visitors are expected, the Commission strongly encourages the applicant to carry out its stated plan to coordinate with nearby businesses and institutions to allow staff and/or visitors to park off-site. This will help to avoid on street parking and to ensure that sufficient on-site parking exists during those events.
- F. The proposed one-way drop-off shall have proper MUTCD signage and pavement markings. All plantings near the driveway exit shall be maintained at a height of three feet or less so as not to obstruct sight lines.
- G. The applicant shall work with the Darien Police Department and/or the State of Connecticut DOT to have "No parking" signs and pavement markings along the Boston Post Road and Brookside Road street frontage. This will ensure proper and safe sight lines coming out of the driveway.

- H. As described at the public hearing, and as shown on the Site Plan, the applicant proposes to install a support beam and column at the corner of the building closest to Brookside Road. The installation of that support beam will allow the removal of a support column which now exists at the entry to the below grade parking. That existing support column divides the entry to the parking area, and is a safety concern to the Commission due to its location. The Commission hereby approves the removal of the existing beam at the entry to the parking and the construction of a new support beam at the corner of the building as shown on the submitted plan.
- I. Per Section 626b of the Zoning Regulations, landscaping, screening and buffer areas shall be provided in accordance with Section 940. Section 944c reads as follows:
c. Where the existing topography and/or landscaping provides natural screening, the Commission may modify the planting and/or buffer area requirements.
In this case, the Commission notes that the existing topography and landscaping provides natural screening, and the Commission hereby modifies the requirements. The Planting Plan along with the related Landscape and Lighting Details submitted by the applicant in Condition A, above meet the requirements. The Commission also hereby allows the required 25 foot buffer to be entirely within the R-1/2 zone. Use of the pathways and landscaped areas in support of the ALF/MCF use is limited to quiet, passive activities and the lighting shall be very subdued.

DURING CONSTRUCTION:

- J. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

DRAINAGE/STORMWATER MANAGEMENT

- K. The applicant shall install the drainage system as shown on the submitted plans. 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 properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- L. By August 7, 2011 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the house, 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. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 599 Boston Post 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

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 16 of 25

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.

- M. Per Section 627e, The Planning and Zoning Commission hereby requires that a conservation easement be conveyed for the required open space. As noted herein, the Commission is allowing the open space to be located in the adjoining R-1/2 Zone. An easement and map shall be filed in the Darien Land Records.
- N. Prior to the issuance of a Certificate of Occupancy, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans. Since there is no change proposed to the footprint of the building, no final “as-built” survey is required to certify that all of the regrading and other site improvements are all in compliance with the approved plans.
- O. Prior to a Certificate of Occupancy for any portion of the building, the applicant shall complete all common improvements for the entire building. These improvements include, but are not limited to: the new drop off area; drainage work; and landscaping and other work within the related open space area.
- P. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This would include, but not be limited to: approval from ConnDOT for the new curb cut on Boston Post Road; a Demolition Permit for the existing residence to be demolished on Brookside Road as part of this application; Darien Sewer Services approval to abandon the sewer lateral which now feeds the residence on Brookside Road. Permits from the Fire Marshal will be needed to remove any existing underground oil tanks, to install any new oil tanks, and for removal of any above-ground or underground propane tanks.
- Q. 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.
- R. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to implementation (i.e., the start of construction) of the approved plan within one year of this action (June 7, 2012). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. 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. All completed requirements and materials: including the drainage maintenance plan and Notice of Drainage Maintenance Plan; Conservation Easement with associated Open Space Map shall be completed and submitted to the Planning and Zoning Department within 90 days of this action; and the Conservation Easement with associated Open Space Map and Notice of Drainage Maintenance Plan filed in the Darien Land Records, or this approval shall become null and void.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 18 of 25

- the proposed use and activities must comply with all provisions of Sections 400 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 documentation, 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. This proposal is to establish a schedule of outdoor events and activities for the Middlesex Club. This Club, located at the terminus of Echo Drive North, consists of over nine acres of property and has been in existence at this location for over 45 years. It is a Special Permit use located within a residential neighborhood.
2. At the public hearing on May 24, 2011, the April 29, 2011 letter from the current president of the Middlesex Club, Stephen Olvany, was reviewed, outlining annual Club events. It was explained that as part of this application, there is no proposed change in membership, no change in Club uses, and no change in hours other than those outlined within his letter. The April 29, 2011 letter includes a brief explanation of what each event entails and the number of events in four areas—1) swim events; 2) tennis events; 3) live/DJ music events (the social calendar); and 4) family field events. All four of these types of events are held annually at the Middlesex Club.
3. At the public hearing, Mr. Olvany said that there is a formal event in July, which has a DJ or a live band that runs beyond sundown. Neighbors usually get notified of that event beforehand. The Commission noted that this party which runs until midnight stands out from other events, and should be specifically singled out. At the public hearing, the neighbors of the Club noted that the original Special Permit for the Club did not consider sound. The neighbors want consideration regarding sound levels. Notice of these special events would also be helpful. Prior Special Permits for the Club note the closing time as “sundown”.
4. At the public hearing on this matter, the neighbors voiced their concerns with certain aspects of the proposed schedule, including the use of microphones and sound systems for certain events, the use of loud and/or amplified music via a band or DJ, and late hours. The neighbors also noted their desire to be notified beforehand of certain events.
5. The Commission asked about the adequacy of on-site parking for events at the Middlesex Club. It was noted that for most events, on-site parking is sufficient. However, for some swim meets, parking overflows onto nearby neighborhood streets.
6. In accordance with the standards of Section 1005 for a Special Permit use in a Residential Zone, the Commission finds that;

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 19 of 25

- The location and size of the use, the nature and intensity 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.
- The location and nature of the proposed use, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
- 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 #50-M is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

A. The schedule of activities shall be as noted within the letter dated April 29, 2011 from Stephen P. Olvany to Jeremy Ginsberg (two pages).

Although plans of the subject property were submitted as part of the application, no physical changes to the property are proposed or approved herein.

B. Relative to annual events, the Commission hereby approves the following:

- Swim Meets—6 to 10 meets annually
- Tennis Events—15 to 25 matches annually
- Live or DJ Music Events (social calendar)—5 to 7 evenings annually
- Family Field Events—4 to 5 evenings annually

It is understood that the annual schedule of events, once published, may subsequently change during the summer, due to weather and/or other circumstances.

C. One of the 5 to 7 approved Live or DJ Music events annually is hereby allowed to run past sundown. Any music (whether live band or DJ) shall end by 11:00 p.m. All Club members shall be off the premises by 12 midnight for that annual event.

D. In order to address parking concerns, if the Club anticipates a large swim meet, they should liaison with other Clubs in Town about carpooling to reduce the number of visiting vehicles. The Club should also hire police officers on an as-needed basis to manage parking/direct traffic. Use of loud speaker announcements during day-to-day Club operations should be kept to a minimum.

E. By May 1 every year, the Middlesex Club shall send an e-mail or hard copy of their schedule of annual events for the summer to those neighbors within 200 feet of their property **who are not members of the Middlesex Club and who own property that is not vacant**. The schedule should indicate which events will include music. It shall specifically state which event is the one event allowed to extend beyond sundown per Condition C, above. Any changes to that schedule throughout the season shall be treated accordingly—those neighbors shall be notified in writing.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 20 of 25

- F. No change in activities beyond those approved herein may be conducted without prior written approval from the Planning and Zoning Commission, and only one Event described in Condition B, above, shall be conducted at any one time.
- G. If the Middlesex Club wishes to have extended hours that go beyond sundown for certain events, prior written approval from the Planning and Zoning Commission must be obtained. Such exceptions will only be permitted on an occasional basis. The Club needs to be mindful of the fact that the Club is a Special Permit use within a single family residential neighborhood.
- H. It is the Middlesex Club's responsibility to monitor programs and parking. They shall adjust their programs as necessary to minimize parking congestion and the use of off-site parking. The Commission strongly recommends that the Middlesex Club better publicize when large events and Special Events are scheduled to occur. This would allow members and neighbors to understand and plan for peak periods of usage.
- I. The Commission hereby conditions this approval on the fact that there is no change in membership, and no physical changes to the Club property. Any future changes in either shall require prior amendment of the Special Permit.
- 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, or if the uses and activities prove to be contrary to the provisions of Section 1005 of the Regulations, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- K. The granting of this Special 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.
- L. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 7, 2012). This may be extended as per Section 1009.

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:

Modification of Subdivision Application #563-A, David & Holly Hawes, 2269 Boston Post Road, Raymond Brown Associates, 2271 Boston Post Road and Raymond and Georgie Brown, 2273 Boston Post Road. Request to reconfigure the existing shared driveway to include a small cul-de-sac with associated stormwater management and perform related site development activities. *PUBLIC HEARING CLOSED: 5/24/2011. DECISION DEADLINE: 7/28/2011.*

Commission members reviewed the draft Resolution.

Mr. Spain had several clarifications and suggestions. All members of the Commission agreed with his suggestions. The following motion was made: That the Commission adopt the following Resolution to approve the requested modifications for this common, private driveway. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 7, 2011**

Application Number: Modification of Subdivision Application #563-A

Name and Address of Property Owners: David & Holly Hawes, 2269 Boston Post Road (Lot #29-A)
Raymond Brown Associates, 2271 Boston Post Road (Lot #28-A)
Raymond and Georgie Brown, 2273 Boston Post Road (Lot #28)

Name and Address of Applicant & Applicant's Representative: Jay Condon
Raymond Brown Associates
261 Wilson Avenue
Norwalk, CT 06854

Activity Being Applied For: Request to reconfigure the existing shared driveway to include a small cul-de-sac with associated stormwater management and perform related site development activities.

Subject Property: The subject properties are on the north side of Boston Post Road, approximately 360 feet east of its intersection with Salt Box Lane.

Zone: R-1/3 Zone

Date of Public Hearing: May 24, 2011

Time and Place: 8:00 p.m. Room 206 Darien Town Hall

Publication of Hearing Notices
Dates: May 13 & 20, 2011

Newspaper: Darien News

Date of Action: June 7, 2011

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 17, 2011

Newspaper: Darien News

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 22 of 25

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 of the Darien Zoning Regulations and all applicable sections of the Subdivision Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the testimony 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 applicant proposes to reconfigure the existing shared driveway to include a small cul-de-sac, a circular turn around area, with associated stormwater management and perform related site development activities. The proposed stormwater management consists of a rain garden near the western property line of Lot #28. A stormwater management report was prepared by Rotondo Engineering, LLC, and submitted as part of this application.
2. The Darien Environmental Protection Commission (EPC) approved this project as part of EPC #8-2011 on May 4, 2011. That approval is hereby incorporated by reference.
3. The Commission notes with respect to the proposed stormwater management system proposed by the applicant and required by the Commission herein, there is a need for the three property owners 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 noted at the public hearing, it was acknowledged the reconfigured shared driveway is neither a public nor a private road. It is a shared driveway as originally approved by the Planning and Zoning Commission as part of a prior subdivision in 1986. It shall continue to be maintained by the three property owners. The street addresses shall continue to be on the Boston Post Road. There is no change proposed to the shared driveway other than turn around shown on the submitted plans.

NOW THEREFORE BE IT RESOLVED that Modification of Subdivision Application #563-A is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The modifications to the subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Stormwater Management Plan, Proposed Driveway Re-Construction, by RBA Properties, dated 04.13.11, Drawing No. SP-1.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 23 of 25

- Stormwater Management Plan Details, Proposed Driveway Re-Construction, by RBA Properties, dated 04.13.11, Drawing No. SP-2.
- B. 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.
- C. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond. The Commission notes that there is now, and will continue to be, a shared driveway to be used and maintained by all three property owners. The shared driveway is not a street and thus, the street addresses for the lots shall not change and shall continue to be on the Boston Post Road.
- D. In order to address stormwater management, the applicant has submitted a plan to install a rain garden/retention area. The Commission is requiring the installation and continued maintenance of that system.
- E. By August 4, 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 these three properties on Boston Post Road (#2269 Boston Post Road, 2271 Boston Post Road (Lot #28-A), Raymond and Georgie Brown, 2273 Boston Post Road (Lot #28) 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 June 7, 2012, certifying that the driveway and on-site stormwater management (rain garden) has been installed in compliance with the approved plans.
- G. 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.
- H. This approval of this subdivision modification/amendment 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.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 24 of 25

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.

Discussions only regarding the following, if public hearings have been closed.

Chairman Conze 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 are proposed.

Commission members said that they were a little bit concerned about the shared parking and whether it would be adequate. Notes to the effect that the parking is shared must be added to the Site Plan. It was also noted that the possible use of State owned land for parking cannot be included in the analysis of the current proposal. At the Commission's request, the staff will draft a resolution for consideration at a future meeting.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #226-A, Flood Damage Prevention Application #250-A, Land Filling & Regrading Application #260, PL Properties, LLC, 3 Purdy Lane. Proposal to repair existing sea wall with some filling and regrading adjacent to the wall, enhance existing tidal wetlands, and perform related site activities within regulated areas.

Commission members concluded that the staff should draft a Resolution for consideration at a future meeting.

Chairman Conze read the following agenda item:

Flood Damage Prevention Application #251-A, Roy & Susan Mackenzie, 30 Driftway Lane. Proposing to construct additions and alterations to the existing single-family residence, with associated stormwater management, and perform related site development activities within a regulated area.

Commission members recommended that the staff draft a resolution for consideration at a future meeting.

Approval of Minutes

May 24, 2011 Public Hearing/General Meeting

Some minor corrections were suggested. All members agreed. A following motion was made: that the Commission adopt the corrected version of the Minutes. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 7, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 25 of 25

Due to scheduling, the meeting originally scheduled for June 14th will be cancelled. At the June 28th meeting, the staff will discuss the history and status of either the DB-1 or the SB Zone.

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

There being no other business, the following motion as made: That the meeting be adjourned at 9:30 P.M. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

Respectfully submitted,

Jeremy B. Ginsberg
Planning and Zoning Director

Pzc\alm\06072011min