

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 28, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

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

Coastal Site Plan Review #44-A, Land Filling & Regrading Application #261, Leslie Sutton, 227 Old King's Highway South. Proposing to construct additions and alterations to the existing single-family residence with associated filling and regrading, and perform related site development activities within a regulated area. The subject property is on the east side of Old King's Highway South, approximately 1,000 feet south of its intersection with McCrea Lane, and is shown on Assessor's Map #49 as Lot #45 and is located in the R-1 and R-1/2 Zones.

Mrs. Cameron recused herself to avoid any appearance of conflict of interest. She no longer sat with the Commission regarding this application.

Attorney Wilder Gleason represented the applicant and explained that the property is in the R-1 and R-1/2 Zones. The lowest ground elevation is 4.4 feet, which is adjacent to Gorham's Pond, and the highest elevation on the property is 35 feet. The house is at the top of the knoll, but the portion of the house facing the pond is at a much lower grade. Attorney Gleason explained that the proposed addition is for a kitchen and family room above a two car garage. Due to the extreme changes of the topography, they needed to obtain a variance from the Zoning Board of Appeals. That variance application was approved. He also said that they have obtained approval from the Environmental Protection Commission (EPC #7-2011). Attorney Gleason submitted photographs of the existing site conditions. He also submitted a letter of support from Town Historian Marian Castell, indicating that the design of the addition is in keeping with the existing old structure. Attorney Gleason said that Coastal Site Plan Review is needed because the project is within the Coastal Area Management boundary. He said that the style of the proposed addition has been carefully designed to complement the architectural style and quality of the existing residence.

Kate Throckmorton, a landscape architect of Environmental Land Solutions, LLC, reviewed the Planting Plan and the Coastal Area Management Report that she had previously submitted. She discussed the fact that they were raising the grade around the addition. Stormwater runoff from the proposed addition will be properly managed to address water quality. This will be achieved by instillation of a rain garden to accommodate the first inch of each rainfall event. Holding back water would detain storm water runoff which is not appropriate with respect to water quantity. This is due to the closeness of the property to Gorham's Pond. Ms. Throckmorton said that the existing

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 2 of 25

trees on the site would be protected throughout the construction process. She said that there are five coastal resources on the site, and none of them would be impacted by the addition or the regrading to accommodate the addition.

Mr. Spain questioned the on-site traffic flow. Mr. Gleason noted that vehicles would be able to pull up to the front door to park or discharge passengers. When the family wants to park in the garage, they will use a different driveway to do so. Mrs. Sutton said that she had the Fire Department come to the site to test the loop drive to make sure that they would be able to get into and out of the site without having to back up. She said that that test was successful.

Attorney Gleason said that they are working with the Health Department to make sure that a B-100a back-up septic system area will be available on site.

Mr. Ginsberg confirmed that the Darien Environmental Protection Commission had approved the project. He read aloud comments from the Connecticut Department of the Environmental Protection (DEP) indicating that they found no inconsistencies between the project and the Coastal Area Management Act.

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

Chairman Conze read the following agenda item, and Mrs. Cameron returned to the Commission.

Land Filling & Regrading Application #262, Kelly Banner, 11 Archer Lane. Proposing to regrade back yard and construct associated retaining wall to create a more level yard and perform related site activities. The subject property is on the northwest side of Archer Lane, approximately 450 feet west of its intersection with Fitch Avenue, and is shown on Assessor's Map #42 as Lot #112 and is located in the R-1/3 Zone.

Mr. Ginsberg said that the applicant and their representative were present as well as a neighbor and the neighbor's representative. Mr. Banner has indicated that he would like to work with his neighbor to resolve any issues. Mr. Ginsberg suggested that the Planning and Zoning Commission open the hearing tonight and continue this public hearing this matter on July 19th. The following motion was made: The Commission continue the public hearing regarding this matter on July 19th, 2011 at 8:00 PM in the Darien Town Hall, probably in room 119. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze said that the Commission would now proceed with the General Meeting. He read the first General Meeting agenda item:

GENERAL MEETING

Amendment of Coastal Site Plan Review #227, Flood Damage Prevention Application #254, Site Plan Application #253, Town of Darien, Weed Beach, 155 Nearwater Lane. Proposing to add fitness equipment along an existing trail within regulated areas. The subject properties are located on the southwest side of Nearwater Lane approximately 250 feet southwest of the corner

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 3 of 25

formed by its intersection with Brush Island Road, and are shown on Assessor's Map #56 as Lots #3, #4, #8, #9, and #10 in the R-1 Zone.

Mr. Ginsberg reviewed the letter from the Parks and Recreation Department indicating that the installation of the exercise equipment would be adjacent to the existing walking path. A grant has been obtained to install this equipment. He said the Environmental Protection Commission has already approved the installation of the equipment in accordance with EPC #17-2011. Mr. Ginsberg said that these are not buildings that require compliance with the Flood Damage Prevention Regulations. These are merely pieces of equipment that will be anchored into the ground and people will be able to exercise using the equipment. Mrs. Riccardo said that she thought that the application and the installation of this exercise equipment would be a great addition for the community. Mr. Ginsberg read aloud the comments from the Connecticut Department of Environmental Protection (DEP) noted in their e-mail of June 28th, 2011. The DEP finds that the proposed project is not inconsistent with the Connecticut Coastal Area Management Act. Mr. Ginsberg said that this is not a major modification of the previously approved plans, and should be dealt with as a minor amendment.

The following motion was made: That the Planning and Zoning Commission approve the requested modification regarding the installation of exercise equipment along the walking path in accordance with the plans and information submitted. The motion was made by Mr. Hutchison, seconded by Mr. Spain, and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #263/Special Permit #64-B, Darien Police Station, 25 Hecker Avenue.

Construction of retaining wall along the rear property line.

Mr. Ginsberg explained that there was an oversight in the drafting of the plans and this has resulted in a steep grade adjacent to the rear property line. To solve the problem, they propose to install a retaining wall. They have discussed the matter with the adjacent property owner, Jerry Nielsen, who has no objection to the project. Police Department Building Committee Chairman George Reilly was available to answer any questions. He said that the wall would be no more than 3.5 feet tall.

The following motion was made: That the Planning and Zoning Commission modify the Special Permit and Site Plan Approvals for the Police Station facilities to authorize the installation of the retaining wall as noted in the submitted plans. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron, and unanimously approved.

At about 8:20 p.m., Chairman Conze read the following agenda item:

Amendment of Business Site Plan #186-A, Sunrise Group, Inc., 800 Boston Post Road, CBD Zone.

Request to establish a massage therapy personal service business in third floor space formerly used as an office.

Mr. Ginsberg explained that the proposed activity is to change from the previous office tenant to a personal service business that will provide massage therapy. They propose to occupy approximately

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 4 of 25

1,500 square feet of vacant space on the third floor of 800 Boston Post Road. Developing World Markets is moving out, and this tenant is taking a portion of that space. He said that this building has its own parking lot, and all of the tenants share that same parking lot. The Planning and Zoning Commission recently approved the Burger, Shakes, and Fries restaurant use of the facility and thus any future change of use will require a review by the Commission.

Gerard Bernacchia of Mercator Companies explained that he is the landlord for this property and he has reviewed the parking situation. He said that he would not approve this change of lease or this new tenant unless there would be adequate on-site parking for all of his tenants and their clients. In response to a question, he noted that the adjacent property that was formerly occupied by the Rainbow Shoppe will soon become a nail salon and the owners and operators of that adjacent property do not have any right to use any portion of the parking lot at 800 Boston Post Road.

Mr. Spain noted that a large van seems to be parking in a position that limits use of the driveway that connects the subject parking lot with the adjacent Fire Department parking lot. He questioned whether any documentation had been received regarding the zoning regulation parking requirements and the actual parking demand created by the various uses of the site. Mr. Bernacchia said that he would submit such documentation and he is confident that there will be no parking problem for the tenants and their clients. He said that in the recent past he has issued parking passes for the employees within the building so that all of those employees will park on the back row of the parking lot, thus leaving the closer rows of parking for customers and clients. Mr. Bernacchia said that the previous tenant within this 1,500 square foot space on the third floor was very dense with employees, and the proposed tenant parking demand is less intense. He said that he does not anticipate that this use will create any parking problems.

Mr. Voigt said that he noticed that some of the on-site parking spaces are labeled as being restricted to specific tenants, and that this appeared to be contrary to the provision of the zoning regulations that all of the tenants have access to all of the parking spaces. Mr. Bernacchia replied that he installed a sign as a result of complaints from a long-term tenant. He will remedy this situation to comply with the regulations.

The Commission members discussed the situation. The following motion was made: That the Commission approve the requested modification of the use with the condition that documentation be provided regarding the required number of on-site parking spaces and the actual parking demand created by each of the each of the tenants and uses within the building. The motion was made by Mrs. Cameron, seconded by Mrs. Riccardo, and was unanimously approved.

At about 8:35 p.m., Chairman Conze then read the following agenda item.

Amendment of Special Permit #125-B(3), Darien Town Hall, 2 Renshaw Road.

Requested use of Room B2 in the basement of Town Hall for Darien Arts Center private music lessons.

Amy Allen, Executive Director of the Darien Arts Center, was present to explain the use of room B2 is for private music lessons given for piano, violin, guitar, and similar instruments. She reported that the Arts Center has been using Room B2 for this purpose for a number of years. In response to questions, Mr. Ginsberg said that the Arts Center use of the room would still be subject to the scheduling of the Parks & Recreation Department and Town functions and facilities would take

precedence over the Arts Center use. The following motion was made: That the Commission authorize an amendment of the Special Permit to allow the Darien Arts Center to use Room B2 of Town Hall as proposed in Amy Allen's June 21, 2011 letter, subject to the scheduling of the Parks & Recreation Department and Town functions and facilities. The motion was made by Mrs. Cameron, seconded by Mr. Spain, and unanimously approved.

Mr. Ginsberg said that there had been some confusion about the Planning and Zoning Commission's previous approval for the Darien Arts Center's use of the Town Hall site for one of its dance classes. In that particular class, there are 23 students, most of whom are of middle school age and are dropped off by bus. A few are dropped off by parents. Mrs. Allen had requested clarification from the Commission about whether the exemption granted by the Planning and Zoning Commission is only for one year or would it extend for the term of the lease agreement between the Arts Center and the Town. The Commission members discussed the matter and the following motion was made: That the Commission determine that one dance class with up to 23 students could function as an exemption for the term of the lease with the Town. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison, and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Special Permit #126-C, Darien Senior Center, Edgerton Street

Requested use of the Senior Center six days a week for use by the Darien Arts Center for classes.

Commission members reviewed the submitted June 21, 2011 letter with associated 2011-2012 schedule. Amy Allen, Executive Director of the Arts Center, said that this is a supplement to the current ongoing programs that her organization conducts. These are proposed for the Senior Center when the seniors are not using the facility. It was noted that no one is sure how long the Town will continue the Senior Center use at that site, or how long these facilities will be available. The following motion was made: That the Commission authorize the amendment of the existing Special Permit for the Senior Center to allow the 2011-2012 use by the Darien Arts Center, subject to the schedule of the Senior Center. The motion was made by Mrs. Cameron, seconded by Mr. Spain, and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit #15-L, Wee Burn Country Club, Hollow Tree Ridge Road.

Replacement of existing pump house.

Mr. Ginsberg explained that the proposal is to construct a new pump house structure adjacent to the irrigation pond. This will replace the old pumping facilities. He said that the Environmental Protection Commission staff considers it to be maintenance item rather than a new activity. He said that it would be a minor modification of the existing Special Permit. In response to questions, Doug Drugo, Club Superintendent of the Wee Burn Country Club, said that irrigation system pumps within this proposed building would pump water directly from the pond, and the pond is fed by a separate well system.

The following motion was made: That the Commission modify the Special Permit for Wee Burn Country Club to authorize the construction of the replacement pump house facility in accordance

with the sketch submitted. The motion was made by Mrs. Cameron, seconded by Mrs. Riccardo, and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Special Permit Application #254/Site Plan, Espresso Neat, 20 Grove Street.

Request for temporary sales within Grove Street Plaza for Darien Summer Nights 2011.

Mr. Ginsberg reviewed the submitted letter/e-mail dated June 15, 2011 requesting approval for outdoor sales of food and beverage at Espresso Neat on the few occasions when the Grove Street Plaza is used for outdoor concerts. This would be a temporary permission for the remainder of this year, and would be subject to Health Department approval. There are only eight or ten Friday nights when the concerts would be conducted during the summer months. David Genovese said that the Melting Pot had a very limited menu of food last year for outdoor service and it would be a very similar limited menu by the Espresso Neat facility which is also adjacent to the Grove Street Plaza. The following motion was made: That the Commission authorize the temporary outdoor sales during the concerts conducted during the summer of 2011. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison, and was unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Business Site Plan #24-M/Special Permit, Cessco Trattoria, 25 Old King's Highway North, Goodwives Shopping Center, DC Zone.

Request to create additional indoor seating and a bar in the space formerly occupied by Tre Amici, Mamma Mia Restaurant, and Four Brothers Pizza, and to establish seasonal outdoor dining.

Richard Girouard explained that the space within Goodwives Shopping Center was formerly occupied by Four Brothers Pizza. He submitted a Site Plan for that restaurant that had 48 seats on the inside. They are now proposing to have 40 inside dining seats, plus 8 seats at the inside bar, and 12 seats that would be located on the front walkway. Mr. Ginsberg said that Architectural Review Board would be reviewing the outside furnishings at their July 19th meeting. A question was raised about whether alcoholic beverages would be served outside. Mr. Girouard said that they would hope to be able to serve alcoholic beverages outside, but it would be subject to any rules and requirements by the State Liquor Control Commission regarding separation. He said that if a fence is required by the State Liquor Control Commission, they would submit the details of that proposed fence to the staff of the Planning and Zoning Commission. It was noted that the outside dining, even if it is fenced in, needs to make adequate provision to maintain the primary use of the walkway, which is as a pedestrian passage.

The following motion was made: That the Commission approve the requested modification to permit the increase of indoor seating and the seasonal outdoor seating for up to 12 persons, subject to the State Liquor Control Commission review and action, and if any fence or other enclosure is required, that the details of that be submitted for Planning and Zoning Department staff review and action. The motion was made by Mr. Hutchison, seconded by Mrs. Riccardo, and unanimously approved.

Chairman Conze then read the following agenda item:

Deliberations and possible decisions on the following:

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 CLOSED: 6/7/2011. DECISION DEADLINE: 8/11/2011.*

The following motion was made: That the Commission waive the process of reading the entire draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting.

Mr. Ginsberg said that a slightly revised draft had been distributed to the Commission members earlier in the evening. It had incorporated proposed changes by various Commission members. He summarized the draft resolution as indicating that the proposed zoning regulations would be adopted, and that the plan for the redevelopment of the property would be approved subject to the stipulations noted in the resolution. Mrs. Riccardo indicated that she was not present at the second of the two public hearings held for this matter, but has reviewed all of the minutes and the DVD of the second hearing. She felt confident that she could vote on this application. Mr. Voigt, who was also unable to attend the second hearing, said that he too had viewed all of the materials and would vote on the application. The following motion was made: That the Commission adopt the following resolution to amend the regulations and to approve the project in accordance with the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron, and unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2011**

Application: 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

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 8 of 25

Street Address: 1292 Boston Post Road
Assessors Map #63 Lot #1

Name and Address of Applicant: Post Road Eleven, LLC
23 Butler's Island Road
Darien, CT 06820

Name and Address
of Property Owner(s): CB Griffith, LLC
17 Shawmut Avenue
Hudson, MA 01749

Name and Address of
Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates, PC
3 Parklands Drive, Suite 207
Darien, CT 06820

Activity Being Applied For: 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.

Subject property: 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.

Zones: Service Business (SB)

Date of Public Hearing: May 3, 2011 continued to June 7, 2011
Deliberations held on June 7, 2011

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

Publication of Hearing Notices

Dates: April 22 & 29, 2011

Newspaper: Darien News

Date of Action: June 28, 2011

Amendments to the Darien Zoning Regulations: ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JULY 24, 2011 AT TWELVE NOON.

Special Permit Application #265, Site Plan Application #269-A, 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. GRANTED WITH STIPULATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JULY 24, 2011 AT 12:01 PM.

Scheduled Date of Publication of Action: Newspaper: Darien News
July 8, 2011

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 Subsections 226, 661, and 666 are proposed, as is the creation of a new subsection 667.1.
 - b) Proposing to raze the existing building at 1292 Boston Post Road 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.The first part of this Adopted Resolution addresses part “a” of the application.
2. In Tab 7 of the bound binder of the applicant’s submitted materials, portions of the Town Plan of Conservation & Development were submitted. The applicant notes that the proposed amendments and related development are consistent with the Town Plan.
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, JULY 24, 2011 AT TWELVE NOON, as revised herein:

The approved wording is as follows:
New wording in bold, deletions in strikeout:

Add a new Note to the end of Section 226:
Eaves located higher than 16 feet above the surface of a parking lot shall not be included in the calculation of dimensions C, D, or E.

Add the following sentence to the end of Section 661:
Development and redevelopment on lots less than 10,000 square feet in area, that existed on January 1, 2010, are allowed in accordance with special controls and design standards.

Add to 2, 3 and 4 in the chart in subsection 666:
(See Note e)

Add to the end of Notes in subsection 666:

e. Development and redevelopment on lots less than 10,000 square feet in area, that existed on January 1, 2010, and that do not meet the minimum of either lot width, frontage or lot depth set forth above shall be subject to Section 667.1.

Add new Subsection 667.1. Special Controls and Design Standards for Small Lots:

667.1. Special Controls and Design Standards for Small Lots in Existence on January 1, 2010. Development and redevelopment of lots in existence on January 1, 2010, that do not comply with the minimum lot width, frontage or lot depth requirements set forth in Section 666 shall be permitted by Special Permit, and shall be subject to Section 1000 and the following additional special controls:

- a. **The Commission may reduce the minimum setbacks, landscaping, screening and buffer areas required by Note b of Section 666 and Sections 900 to 909.2, where the Commission finds that the proposed screening and landscaping provide adequate screening from adjacent residential parcels.**
- b. **Solid fencing and/or dense evergreen vegetation shall be required along rear lot lines adjacent to or within 100 feet of residential zones.**
- c. **The Commission may reduce the minimum rear yard to not less than four feet, provided the Commission makes the following findings:**
 1. **Existing topographic features on or adjacent to the site minimize impacts on adjacent residential properties, and**
 2. **Fencing, landscaping and screening shall be sufficient to minimize impacts to adjacent residential properties.**
- d. **The Commission may allow Building Coverage up to 35 percent and Developed Site Area up to 85 percent where the property is located within 1,000 feet of the Central Business District (CBD), and the Commission finds that the proposed development shall include sufficient fencing, landscaping, screening, and site drainage to reduce impacts to abutting residential and commercial properties.**
- e. **Uses allowed in the Central Business District (CBD) may be allowed by Special Permit on property located within 1,000 feet of the CBD.**
- f. **Where the provisions of this Section 667.1 shall conflict with any other provisions of the Zoning Regulations, the provisions of this Section 667.1 shall govern.**

The Commission has adopted the applicant's zoning regulation amendments largely as proposed, with the principal modification to the request being a change to the numbering in 667.1c and changing the words "lot coverage" changed to "building coverage" in 667.1d.

The second part of this Adopted Resolution addresses part "b" of the application—the Special Permit, Site Plan, and Land Filling and Regrading Applications for the proposed re-development of the subject property.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 11 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 660 as amended, 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 plans, the proposal is to raze the existing one-story building and construct a new two-story building with related parking and landscaping. The subject property is served by public water and sewer. The subject building at 1292 Boston Post Road was previously used as Stolfi-Fairfield electric and appliance store. The submitted architectural plans show the footprint of that building as 3,905 square feet. The submitted survey notes that the subject property is .185 acres or 8,048 square feet.
 2. The existing parking layout results in all vehicles backing into the Boston Post Road to exit the site. The Commission believes that this results in an unsafe condition. The Commission's policy is to eliminate such design as part of the redevelopment of a property. The proposed design submitted by the applicant does eliminate all backing of vehicles into Boston Post Road.
 3. The Architectural Review Board (ARB) reviewed and approved this project as part of ARB #23-2008 in September 2008. That approval is hereby incorporated by reference.
 4. A total of 10 parking spaces are proposed within the parking area, with one of those ten being reserved for handicapped-accessible parking. This parking area would be shared among the two proposed uses within the building. Under the Darien Zoning Regulations, development proposed solely within the subject application would require 24 spaces as follows:
 - a. One Space per 150 sf for 1st floor retail. 2,209 sf proposed: 15 spaces required
 - b. One space per 250 sf for 2nd floor office. 2,226 sf proposed: 9 spaces required.
 5. The applicant proposes to utilize a Joint Parking arrangement as expressly permitted by Section 905 of the Darien Zoning Regulations. Section 905 reads as follows:

"905. Joint Parking

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:

 - a. *The Commission finds that the proposed capacity shall meet the intent of the requirements;*
 - b. *Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;*

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 12 of 25

- c. *Legal documentation shall be furnished establishing such rights for the duration of such joint use.*

Such shared parking arrangements shall be limited to use and shall not include shared parking by time. No parking spaces shall be reserved for any specific building tenant”

6. A Traffic Study was submitted as part of this application. Pages 5-7 of that Traffic Study reviews parking. Its conclusion is that “...the ten proposed parking spaces within the site are adequate for the specific proposed land uses at this location: an antique shop and an architect office with a maximum of five employees.” At the May 3, 2011 public hearing, it was noted by the applicant’s traffic consultant 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. The Town hired Michael Galante of Frederick P. Clark Associates to peer review the application. In his April 13, 2011 letter, Mr. Galante notes, “It is likely that the only possible overflow of parking demand may be on a Saturday or Sunday if the antique store was to have a sale or other event. In the event of tenant(s) changes it would be appropriate for the Applicant to submit a request for change in tenant(s) and provide a parking analysis for the new use.”
7. 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.
8. The submitted Landscape Screening Plan dated June 4, 2011 shows plantings both on the subject property as well as on adjacent residential properties. As described at the public hearing, the applicant has worked with the neighbors on the design and creation of this Plan. No neighbors spoke in opposition to the application at the May 3, 2011 or June 7, 2011 public hearings, although one letter with concerns was received.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000. The Commission finds that the proposed re-development of the site complies with the provisions of Section 667.1, including, but not limited to:
 - the proposed screening and landscaping shall provide adequate screening from adjacent residential parcels;
 - solid fencing and dense evergreen vegetation shall be provided along rear lot line adjacent to or within 100 feet of residential zones;
 - the reduction of the minimum rear yard is due to the existing topographic features on or adjacent to the site and will minimize impacts on adjacent residential properties;
 - fencing, landscaping and screening shall be sufficient to minimize impacts to adjacent residential properties; and
 - the Building Coverage up to 35 percent and Developed Site Area up to 85 percent is allowed because the property is located within 1,000 feet of the Central Business District (CBD); and the Commission finds that the proposed development shall include sufficient fencing,

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 13 of 25

landscaping, screening, and site drainage to reduce impacts to abutting residential and commercial properties.

10. The proposal conforms to the standards for approval as specified in Section 850 and Section 1005 (a) through (g) of the Darien Zoning Regulations.
11. 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.
12. 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 #265, Site Plan Application #269-A, Land Filling & Regrading Application #225-A, 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 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:
 - Topographic and Zoning Location Survey prepared for Post Road Eleven LLC, scale 1"=10', by William W. Seymour & Associates, dated January 9, 2008 and last revised February 2, 2011.
 - Proposed Site Plan, Post Road Eleven, LLC, 1292 Post Road, by GHD, dated February 7, 2011.
 - PG Properties, Post 11, by Carol Guthrie Landscape Design, Ltd., scale 1"=10', dated June 4, 2011.
 - Post Eleven, 1292 Boston Post Road, by Robert A. Cardello Architects, LLC, revised 2.17.11, Drawing #C-1, A-1.1 through A-1.2, A-2.0 through A-2.3.
- B. All utilities serving the 1292 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. The installation of the retaining walls near the rear lot line and the stabilization of the disturbed areas are critical components of the project. This work must be completed prior to work on the building above the foundation level. Because the majority of the regrading portion of this project must be implemented prior to work on the building above the foundation level, a performance bond for the filling and regrading is hereby waived. Another critical aspect of the work is the proper installation of the fencing and landscaping plants to provide screening

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 14 of 25

between this commercial property and the nearby residences. The fencing and screening landscaping shall be installed before or during the framing of the building and must be completed before the roof of the building is installed.

- E. On page 8 of the Traffic Study submitted by the applicant, it states, "The architecture firm should be limited to no more than five employees to limit their parking demand and reduce the need for more spaces." It notes that parking supply will be adequate if the proposed uses of an antique shop and five-person architecture firm are as described. The Town hired Michael Galante of Frederick P. Clark Associates to peer review the application. At the May 3, 2011 public hearing, he noted 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. The Commission hereby limits the types of uses and numbers of workers to that which was submitted by the applicant and limits the first floor antique store tenant to no special sales or events that would attract extra customers.
- F. It is clear that the current proposed uses will have parking needs satisfied on-site. Any change of use or change of tenants shall require review and action by the Planning and Zoning Commission. If, in the future, the applicant constructs additional parking on the adjacent State property, this condition of approval may be eliminated by action of the Commission.
- G. This application does not rely upon or use the adjacent State land. The Commission strongly encourages the applicant to pursue that property for use as parking. This additional parking would certainly enable the applicant to have future flexibility regarding potential tenants and uses within the proposed building.
- H. Because of the nature of the proposed use, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. Any change in uses may require a loading zone in the future.
- I. The garbage bins area shown on the plans shall be neatly maintained, and the lids shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this area, including ensuring that it is emptied frequently enough to minimize odors and for scheduling collection times to be sensitive to the nearby residential area.
- J. All site work, including but not limited to curbing, paved and striped parking spaces, drainage systems, safety signage, transformer, dumpster enclosure, landscaping and other site improvements as shown on the approved plans shall be properly installed and completed prior to the use of any portion of the building and/or the issuance of a Certificate of Occupancy for that building.
- K. All landscaping shall be installed per the submitted Layout and Landscape Plan and Details Plan referenced in Condition A, above. Any changes or substitutions must be approved in writing by the Planning and Zoning Commission.
- L. Prior to any occasions when the on-site parking might not be sufficient, the Commission strongly encourages the applicant 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.

DURING CONSTRUCTION:

M. 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

- N. 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 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 such owner's expense and as quickly as possible.
- O. By August 28, 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, 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, such plan shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 1292 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 facilities to minimize impacts upon adjacent properties. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- P. 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. A final "as-built" survey is required to certify that the building, drainage, retaining walls, landscaping, regrading and all other site improvements are all in compliance with the approved plans.
- Q. 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 drainage work and landscaping.
- R. 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 building; Darien Sewer Services approval to abandon the sewer lateral which now feeds the building. 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.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 16 of 25

- S. 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.
- T. 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 28, 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; shall be completed and submitted to the Planning and Zoning Department within 90 days of this action; and Notice of Drainage Maintenance Plan filed in the Darien Land Records, or this approval shall become null and void.

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. *HEARING CLOSED: 6/7/2011. DECISION DEADLINE: 8/11/2011.*

The draft resolution was reviewed. The following motion was made: That the Commission adopt the following resolution to grant the project in accordance with the stipulations as noted. The motion was made by Mr. Spain and seconded by Mr. Hutchison. Voting in favor were Mr. Spain, Mr. Hutchison, Mrs. Cameron, and Mr. Conze. Mrs. Riccardo and Mr. Voigt abstained because they had not been present for the single public hearing held for this matter. The motion was approved by a vote of 4 to 0 to 2. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2011**

Application Number: Coastal Site Plan Review #226-A
Flood Damage Prevention Application #250-A
Land Filling & Regrading Application #260

Street Address: 3 Purdy Lane
Assessor's Map #54 Lot #33

Name and Address of Property Owner: PL Partnership, LLC
And Applicant: 2748 Boston Post Road
Darien, CT 06820

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 17 of 25

Name and Address of Applicant's Representative: Charles E. Coates, III, Esq.
Whitman Breed Abbott & Morgan, LLC
500 West Putnam Avenue
Greenwich, CT 06830

Activity Being Applied For: 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.

Property Location: The subject property is on the south side of Boston Post Road, approximately 465 feet east of the Stamford City Line.

Zone: R-1/3

Date of Public Hearing: June 7, 2011

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

Publication of Hearing Notices
Dates: May 27 and June 3, 2011

Newspaper: Darien News

Date of Action: June 28, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 8, 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 and 810 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is 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. During the public hearing, the applicant's representative clarified that the application is only for seawall repair work and tidal wetlands enhancement/restoration.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 18 of 25

2. There are now two single-family residences on the subject property. No changes are proposed to these residences, and no new house construction or subdivision is proposed as part of this application. Removal of the existing garage is not contemplated as part of the seawall repair and tidal restoration. The applicant's representative explained that the garage removal will likely be proposed as part of a future application.
3. The Darien Environmental Protection Commission (EPC) approved this project on June 1, 2011 as part of EPC #14-2011. That approval is hereby incorporated by reference.
4. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail regarding this application dated May 6, 2011. In that e-mail, they note that they "...find no inconsistencies with the proposal..." The State of Connecticut Department of Environmental Protection (DEP) approved this proposal in a March 24, 2011 letter to the applicant.
5. At the public hearing, it was noted that some of the proposed work will occur waterward of the existing seawall. Some machinery and equipment will be placed in Holly Pond to accomplish part of the work.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
9. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.
10. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #226-A, Flood Damage Prevention Application #250-A and Land Filling & Regrading Application #260 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the conditions noted herein, seawall repair and tidal wetlands enhancement shall be in accordance with the following plans:

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 19 of 25

- “Darien P&Z and EPC Review Tidal Wetland Enhancement and Existing Seawall Repair Site Plan, PL Partnership, LLC, 3 Purdy Lane, by William Kenny Associates, LLC, scale as noted, dated April 18, 2011, Drawing 1 of 1.
 - Repairs to an Existing Seawall & Tidal Wetland Enhancements 3 Purdy Lane, by Roberge Associates Coastal Engineers, LLC and William Kenny Associates, LLC, dated 12/10/2010 and last revised 2/25/2011, Sheets 10-31 of 32. Pages 19 and 30 of 32 list the specific plantings to be installed.
- B. Because of the nature of the application, the stormwater management requirements in Section 880 are hereby waived. The Commission notes that this property is directly adjacent to Holly Pond and there is no new impervious surface proposed. Thus no drainage system has been provided, and none is required by the Commission.
- C. Because of the minor nature of the filling and regrading proposed, the Commission waives the requirement for a performance bond.
- D. The Commission hereby requires a post-project topographic survey, to confirm that the project has been completed per the submitted plans, including, but not limited to, the required plantings and any filling on either side of the seawall. That survey shall be submitted to the Planning and Zoning Department by June 28, 2012. That survey shall include one foot contours and spot elevations accurate to one tenth of a foot, and be completed only for the areas of the property within 40 feet of the seawall. This final “as-built” survey for this portion of the property is hereby required to certify that any regrading and the site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance with the approved plans.
- E. In order to minimize potential environmental impacts, the applicant shall only work on the seawall 100 feet at a time, and only during low tide.
- F. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans, and as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- 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. 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.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 20 of 25

- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 28, 2012). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within the next 60 days, and prior to the start of any work.

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. *HEARING CLOSED: 6/7/2011. DECISION DEADLINE: 8/11/2011.*

The following motion was made: That the Commission adopt the following resolution to adopt the project in accordance with the stipulations as noted. The motion was made Mrs. Cameron and seconded by Mr. Spain. Voting in favor were Mrs. Cameron, Mr. Spain, Mr. Conze, and Mr. Hutchison. Mrs. Riccardo and Mr. Voigt abstained because they had not been present for the single public hearing held for this matter. The motion was approved by a vote of 4 to 0 to 2. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2011**

Application Number: Flood Damage Prevention Application #251-A

Street Address: 30 Driftway Lane
Assessor's Map #66 Lot #126

Name and Address of Property Owner: Roy & Susan Mackenzie
30 Driftway Lane
Darien, CT 06820

Name and Address of Applicant
And Applicant's Representative: Renato Gasparian
Renato Gasparian Assoc.
888 Gilbert Highway
Fairfield, CT 06824

Activity Being Applied For: 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.

Property Location: The subject property is located on the east side of Driftway Lane, approximately 600 feet north of its intersection with Old Farm Road.

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 21 of 25

Zone: R-1

Date of Public Hearing: June 7, 2011

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

Publication of Hearing Notices

Dates: May 27, and June 3, 2011

Newspaper: Darien News

Date of Action: June 28, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 8, 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 406 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development 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. This application is 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 residence is now served by an on-site septic system and public water service.
2. As noted at the public hearing, although there are wetlands in the rear of the property, no work is proposed to occur within 50 feet of the wetlands, and thus, no review or action by the Environmental Protection Commission was necessary for this application.
3. The applicant noted that of the neighbors within 100 feet of the subject property, all but one had given written support for the application. No neighbors spoke against the proposal at the public hearing.
4. The Darien Health Department sent a memo dated May 31, 2011 regarding this application. In that memo, the Department a number of comments, including: "...the exact location of the leaching system must be determined in the field before construction of the stormwater system begins...", and "...there can be no associated drainage system installed for the proposed retaining wall...".

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 22 of 25

5. As part of this application, the property owner will be installing gutters on the house connected to an underground drainage to new drainage galleries. The Commission notes with respect to the underground detention system (the cultec unit(s) required by the Commission herein), 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.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #251-A is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, installation of stormwater management, and other activity shall be in accordance with the plans entitled:
 - Plot Plan prepared for Roy Mackenzie & Susan Mackenzie 30 Driftway Lane, scale 1"=20', dated 19 February 2011, by Nutmeg Land Surveying Services.
 - Site Plan Details & Notes, Roy & Susan Mackenzie, by Richard Bennett & Associates, LLC, dated 5/12/11, Sheet No. 1 of 1.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house additions comply with the applicable flood damage prevention requirements.
- C. As noted within the Darien Health Department's May 31, 2011 memo, the Commission hereby requires:
 1. The exact location of the leaching system must be determined in the field before construction of the stormwater system begins.
 2. The catch basin and 8 inch PVC from the basin to the stormwater management system must be watertight and the installation inspected to the satisfaction of a representative of the Darien Health Department.
 3. There can be no associated drainage system installed for the proposed retaining wall.
- D. By August 28, 2011 (within the next 60 days) and prior to the issuance of Zoning or Building Permits for the house additions, 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 30 Driftway Lane to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 23 of 25

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.

- E. 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, plus any additional measures as may be needed due to site conditions, 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.
- F. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the site grading, building construction and the storm water management (drainage) system have been completed in compliance with the approved plans and the flood damage prevention regulations.
- G. 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. A final Certificate of Occupancy will not be granted until all conditions of all town bodies have been satisfied. This includes the Building Official, Health Department, and Zoning Official.
- 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. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (June 28, 2012). This may be extended as per Section 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Conze read the following agenda items.

Deliberations only regarding the following, if the public hearings have been closed:
Coastal Site Plan Review #44-A, Land Filling & Regrading Application #261, Leslie Sutton, 227 Old King's Highway South. Proposing to construct additions and alterations to the existing single-family residence with associated filling and regrading, and perform related site development activities within a regulated area.

Land Filling & Regrading Application #262, Kelly Banner, 11 Archer Lane. Proposing to regrade back yard and construct associated retaining wall to create a more level yard and perform related site activities.

Commission members asked the staff to draft a resolution to approve the Sutton application. Hopefully it can be acted on at the meeting of July 19th. The Banner application has been continued to that date.

Chairman Conze read the following agenda item

Approval of Minutes

May 3, 2011 Public Hearing/General Meeting

Several minor revisions and comments were discussed. All members agreed to incorporate those revisions. The following motion was made: That the revised minutes be approved. The motion was made by Mr. Voigt and seconded by Mrs. Riccardo. All voted in favor except Mr. Conze, who had not been present at the May 3rd meeting.

Approval of Minutes

May 10, 2011 Public Hearing/General Meeting

The following motion was made: That the minutes be approved as written. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

At 9:00 p.m., Chairman Conze then read the final agenda item:

Presentation by Commission staff regarding the Service Business (SB) and Service Business-East (SB-E) Zones.

Mr. Ginsberg made a Powerpoint presentation regarding the history, background and purposes of the Service Business Zones within the town. The presentation gave information on the location of the four Service Business (SB) Zones and the one Service Business-East (SB-E) Zone in Town. It also outlined some of the uses now existing within those zoning districts, including, but not limited to:

- Commercial Sales and Service Uses Generally Requiring External Storage or Activity;
- Restaurants;
- Automobile-related Uses (such as gas stations and car washes).

Mr. Conze said that in one sense, the Planning and Zoning Commission serves as “asset managers” to maintain the town facilities and character. Gregory Cava, a former Commission member, spoke about the appropriateness of separating uses like car washes and gas stations, which are needed within the community, but should not be adjacent to office building or residential uses. Ed Schmidt, another former Commission member, said that the Planning and Zoning Commission needs to maintain the Service Business zones and needs to encourage what it wants to be located within those zones, not just prohibit the worst uses that should not be allowed. He said that Commission needs to plan ahead and be in front of the wave rather than following behind the wave.

Attorney Wilder Gleason said that there was some confusion about uses that require outside activities. He said that the Commission should also consider amending the zone boundary line to match the rear lot line, rather than have a consistent dimension from the street right-of-way. He also

PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 28, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 25 of 25

said that the Commission should look at certain areas to allow the expansion of the business zone into residential zones. Commission members believed that expansion of the business zone into residential zone is a very difficult thing.

Jerry Nielsen explained that he owns property in the Service Business (SB) Zone, and understands that the Commission has provided the Service Business zone as a place where certain uses are permitted and certain other uses are not permitted. Mr. Cava said that changing the rear zone boundary line to match property lines would sometimes infringe on existing established residential neighbors. He said that the creation and maintenance of the buffer areas and separation between the business uses and the residential areas is very important.

There being no further business, the following motion was made: That the Commission adjourn the meeting at 10:05 p.m. The motion was made by Mr. Spain, seconded by Mrs. Riccardo, and unanimously approved. The meeting was then adjourned at 10:05 p.m.

Respectfully submitted,

David J. Keating
Assistant Planning and Zoning Director

Pzc\alm\06282011min