

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JULY 19, 2011**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg
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 #218-B, Flood Damage Prevention Application #255-A, Land Filling & Regrading Application #46-A, Robert Minicucci, 159 Long Neck Point Road. Proposing to: construct a fixed pier, ramp and float; restore a tidal wetland by removing Phragmites and lowering the elevation of the wetlands; and perform related site development activities within regulated areas. The subject property is located on the east side of Long Neck Point Road, approximately 200 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #1 in the R-1 Zone. *POSTPONED TO JULY 26, 2011.*

Mr. Conze noted that this item had been postponed until July 26. He then read the next agenda item:

Continuation of Public Hearing regarding 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. *PUBLIC HEARING WAS OPENED ON JUNE 28, 2011, AND WAS IMMEDIATELY CONTINUED TO JULY 19, 2011.*

Neil Brunetti with the Odd Job Company was present on behalf of the property owner, Kelly Banner. The proposal is to regrade and construct an associated retaining wall, and to create a level backyard. Mr. Brunetti explained that they have approval from the Darien Environmental Protection Commission (EPC). He then showed photographs of the existing slope. He also explained the plan last revised 7/5/2011. Mr. Brunetti mentioned that the application is to cut into the existing embankment not exceeding four feet, and to place some fill near the existing patio, not exceeding two feet. The wall will have a three foot reveal. A new field stone wall, to match the retaining wall, will be constructed. The retaining wall will have weep holes, and overall, the project will have less runoff and more infiltration than existing conditions. They are changing a five foot grade change down to a one foot grade change. They also propose to funnel water to the existing catch basin, which will pipe it into an existing cultec system within the front yard. The twelve inch

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 2 of 14

wide yard drain will be changed to an eighteen inch drain; it also will be moved to the low point in that section of the yard.

Mr. Brunetti explained that the driveway currently has curbing and funnels out into the street. As part of his project, some plantings are also proposed. There will be minimal grading on the east side of the property.

Mr. Hutchison asked whether they can install a curtain drain near the fieldstone patio wall to catch some water. Mr. Brunetti responded that the new patio would be on crushed stone to increase infiltration. Mr. Spain asked about the current surface flow of rain water on the property. Mr. Brunetti responded that there is now some puddling near the corner of the house. The yard drains are piped to cultec units with an overflow in the front yard. Mrs. Riccardo then asked whether there has been any maintenance done on the cultec units since their installation. Mrs. Banner, the property owner, responded that there has not been maintenance on the cultec units, and that she has never seen an overflow due to rain. Mr. Spain asked about the possibility of moving the yard drain. Mr. Brunetti believed that moving the yard drain would result in catching slightly more water if the drain was moved just a short distance to the actual low point.

Mr. Rolf Obin of 9 Archer Lane said that he is concerned about the proximity of the proposed patio to his property. Mr. Ginsberg explained that the minimum setbacks for on grade patios are eight feet according to the Darien Zoning Regulations. He noted that it appeared from the submitted plans that the proposed patio complies with the regulations. Mr. Spain asked how much water on this property is from adjacent properties. Mr. Brunetti responded that this parcel is generally downhill from a number of properties around the rear yard.

There being no further questions from Commission members or the general public, Mr. Spain made a motion to close the public hearing on this matter. That motion was seconded by Mr. Hutchison, and was unanimously approved

At about 8:20 p.m., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #268, Nancy Dauk, 39 Contentment Island Road. Proposing to replace the existing septic system for both the main house and the cottage by installing a new septic tank, pump chamber and leaching fields and to perform related site development activities within a regulated area. The subject property is on the south side of Contentment Island Road, approximately 1,200 feet west of its intersection with Shennamere Road, and is shown on Assessor's Map #68 as Lot #14, in the R-1 Zone.

Mr. Doug DiVesta, PE, explained that the subject property is 2.3 acres, and is located in the R-1 Zone. The existing residence was constructed in 1949, and the existing cottage on the property was constructed in 1906. He then showed on the plans the existing location of the septic systems for both the house and the cottage. Mr. DiVesta noted that the systems are not failing, but the owners are renovating the house, and want to make sure the system is sufficient for that and also for the cottage. He explained that good septic soils were found east of the existing residence. Mr. DiVesta noted that part of the proposed septic system is within one hundred feet of mean high water. The proposal has been reviewed by the Darien Health Department, and the State of Connecticut has approved the septic system which will serve both the house and the cottage. Mr. Ginsberg read aloud a July 19th e-mail from David Knauf of the Darien Health Department. Mr. DiVesta then

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 3 of 14

explained the rationale for the proposed location of the septic system. Mr. Spain asked whether there was an area outside of the CAM area where it would be possible for the new septic system to be located. Mr. DiVesta reviewed the submitted plans, noting the constraints that were present on the property. He added that the terrain is higher between the proposed field location and the drop-off to the shoreline.

There being no further questions or comments from Commission members, and there being no questions or comments from the general public, Mr. Voigt made a motion to close the public hearing on this matter. That motion was seconded by Mrs. Riccardo, and was unanimously approved.

At about 8:27 p.m., Mr. Conze then read the next agenda item.

Amendment of Land Filling & Regrading Application #207-B(2), William & Rose-Marie Shanahan, 54 Sunswyck Road. Proposing to excavate and regrade and to perform related site activities. The subject property is on the east side of Sunswyck Road, approximately 400 feet south of its intersection with Tory Hole Road, and is shown on Assessor's Map #62 as Lot #22-1, in the R-1 Zone.

Attorney Wilder Gleason was present on behalf of the Shanahans. He distributed revised plans dated 2/15/11 for a wall on the subject property which he noted should show a last revised date of 7/15/2011. Mr. Gleason noted that the applicants received approval for a Land Filling and Regrading project in 2009, and he distributed a copy of Land Filling & Regrading Application #207-B. This application is to modify the 2009 approval. He explained that the adjacent vacant lot at 54 Sunswyck Road had been approved for a five bedroom septic system. Mr. Gleason mentioned that Mr. Shanahan does not want to build the wall towards the Mercein driveway, but does want to have the stone wall parallel to the grade of Sunswyck Road. Mr. Gleason then showed the area of excavation on both the Shanahan property and the Sunswyck Road right-of-way. A three foot high wall is proposed. Brook Clark, of Gregory Lombardi Design Incorporated, then referred to plan Sheet L3.00. She noted that part of the wall will be a retaining wall.

Mr. Spain then asked how the wall and the grading affect the surface flow of water. Mr. Gleason responded that the weep holes are large and periodically placed, so it will allow surface flow to remain as-is. He added that Mr. Shanahan wants an even, flat wall at the same elevation. Mr. Gleason noted that the development of the 54 Sunswyck Road (now vacant) property is not part of this application. He explained that David Knauf of the Darien Health Department explained that this wall could impact future development of that property, because it might limit the size of the area for a septic field. Mr. Gleason confirmed that Mr. Shanahan is willing to accept that restriction.

Mr. Conze noted that no members of the general public were present to speak regarding the application. There being no further comments or questions from the Commission members, Mr. Voigt made a motion to close the public hearing on this matter. That motion was seconded by Mr. Hutchison, and unanimously approved.

GENERAL MEETING

At about 8:40 p.m., Mr. Conze read the first general meeting agenda item:

Discussion, deliberation and possible decision regarding:

Coastal Site Plan Review #36-B, Flood Damage Prevention Application #34-B, Robert & Amy Rupp, 3 Candlewood Lane. Proposing to construct additions and alterations to the existing residence, remove the existing cottage and perform related site development activities within regulated areas. The subject property is on the north side of Candlewood Lane, approximately 1,000 feet east of its intersection of Hawthorne Road, and is shown on Assessor's Map #62 as Lot #70 and is located in the R-1 Zone. *DECISION DEADLINE: JULY 19, 2011*

A motion was made by Mr. Spain to waive the reading of the draft resolutions aloud. That motion was seconded by Mr. Hutchison, and unanimously approved. Mrs. Riccardo had one minor change to Condition G of the Rupp draft resolution. Mr. Hutchison then made a motion to adopt the resolution with that one modification. That motion was seconded by Mr. Voigt, and was unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 19, 2011**

Application Number: Coastal Site Plan Review #36-B
Flood Damage Prevention Application #34-B

Street Address: 3 Candlewood Lane
Assessor's Map #62 Lot #70

Name and Address of Property Owner: Robert & Amy Rupp
And Applicant: 3 Candlewood Lane
Darien, CT 06820

Name and Address of: Jacek Bigosinski
Applicant's Representative: PB Architects
277 Rowayton Avenue
Rowayton, CT 06853

Activity Being Applied For: Proposing to construct additions and alterations to the existing residence, remove the existing cottage and perform related site development activities within regulated areas.

Property Location: The subject property is on the north side of Candlewood Lane, approximately 1,000 feet east of its intersection of Hawthorne Road.

Zone: R-1

Date of Public Hearing: May 3, 2011

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

Publication of Hearing Notices
Dates: April 22 & 29, 2011

Newspaper: Darien News

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 5 of 14

Date of Action: July 19, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 29, 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 410, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The owner proposes to construct additions and alterations to the existing residence, remove the existing cottage, and perform related site development activities within regulated areas. They would then renovate the rest of the house and construct a garage addition with finished space above it. Overall, there is a net decrease of impervious area on the site by 340 square feet.
2. The subject property is served by public water and private on-site septic system, and according to the submitted Zoning Location Survey, is over 2.5 acres in size. The existing house is not within the 100-year flood zone. At the current time only the pool is located within the 100-year flood boundary, but no changes are proposed to the pool.
3. The sanitary sewer line has been installed in parts of this private neighbor association, but not extended onto this property. The Health Department has indicated via April 11, 2011 e-mail that the applicant must connect to the sanitary sewers if the proposed improvements are carried out. At the public hearing, it was explained by the applicant's representative that connecting to the sanitary sewers will create a hardship due to the length of the connection. Instead of costing a typical \$20,000 to connect, this connection will cost approximately \$260,000 or more, given the very long hook-up distance.
4. Steven Trinkaus, Professional Engineer, said that the septic system works fine under normal conditions. At present, there are 5 bedrooms and when they are finished, there will be 5 bedrooms. He said that there are lots of rocky outcrops on the site, making it difficult to provide a B-100a reserve area.
5. At the public hearing, the Mr. Trinkaus asked that the Commission approve the project with the condition that if there is problem with the performance of the existing septic system now or in the future, then at that point that they be required to connect to the sanitary sewers. Mr.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 6 of 14

Trinkaus said that if they were only renovating the existing building structure, it would not require connection to the sanitary sewer. He said that it is the new addition that triggers the Health Department to require the connection to the sanitary sewer. He said that they do not know details of the existing septic system because it was built so long ago, but if it is still functioning properly, they should be allowed to continue to use it because they are not adding any bedrooms.

6. At the public hearing, the April 25th response from the Connecticut Department of Environmental Protection (DEP) was read aloud. DEP noted that there are numerous coastal resources on the site and that the septic system location or locations are uncertain. They agree with the Darien Director of Health that the sanitary sewer connection should be made at this time.
7. The Commission is not taking an action that would supersede the authority of the Health Department, as the Commission does not have the facts or the authority or the expertise to supersede the Health Department. However, the Commission must make a decision on the Coastal Site Plan and Flood Damage Prevention aspects of this application within the statutory time frames.
8. Commission members noted that it might be appropriate for the Commission members to act on the coastal area management issues and note that there is no regrading of the site for the house addition and no increase in the amount of paved area. The Commission is hereby acting upon the application and is requiring the property owner to resolve the septic system/sanitary sewer connection with the Health Department. **The final determination on whether the property owner is required to tie into the newly installed sanitary sewer system shall be made by the Darien Health Department.**
9. The proposed planted area is not a rain garden, but more of a vegetated filter strip. As noted on the plans, neither the existing house, nor the proposed addition has gutters. Runoff from the roof of the additional will follow the natural contours (not being changed) to the proposed planted area. Flows will be filtered by the plant material, drain toward the pool and then follow the existing grades to the west around the pool and ultimately to the sound.
10. As noted on the plan, the work proposed on this site will actually reduce the extent of impervious cover on the lot. As the site is located directly on the Scott's Cove, storm water detention is not warranted, especially since there is less impervious coverage. The current proposal with the vegetated filter strip will enhance water quality benefits by creating a densely planted area through which runoff from the addition will flow and remove pollutants.
11. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
13. 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

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 7 of 14

activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

14. 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.
15. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #36-B and Flood Damage Prevention Application #34-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission is approving the project with respect to Coastal Site Plan and Flood Damage Prevention matters and hereby requires the property owner to resolve the septic system/sanitary sewer connection with the Health Department prior to the request for the Zoning/Building Permit. **The final determination on whether the property owner is required to tie into the newly installed sanitary sewer system shall be made by the Darien Health Department.** All work shall be in accordance with the plans entitled:
 - Stormwater Management Plan prepared for Amy Rupp, by Trinkaus Engineering, LLC, scale 1"=20', dated March 18, 2011.
 - Site Plan, Additions and Alterations to the Residence of Amy and Robert Rupp, by PB Architects, last revised 3/11/2011, Drawing No. SP.
 - Additions and Alterations to the Residence of Amy and Robert Rupp, by PB Architects, last revised 3/11/2011, Sheets A-1 through A-9.
- B. The proposed activity 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.
- C. The Commission finds under Section 888a(1) of the Darien Zoning Regulations, the requirement for stormwater detention is hereby waived due to the specific location of the 3 Candlewood Lane property within the watershed and directly adjacent to Scott's Cove. The specific wording of that section reads as follows: "The Planning and Zoning Commission and/or the Environmental Protection Commission may waive one or more of the provisions in Section 880 *et. seq.* under any of the following circumstances: (1) Based upon the size and/or location of the subject property;..."
- D. During construction, the applicant shall utilize any additional measures as may be necessary due to site conditions, and the siltation fence shown on the Stormwater Management Plan. 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. All erosion control measures to be installed must be maintained until the disturbed areas are stabilized. Prior to the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 8 of 14

- E. Prior to the issuance of a Certificate of Occupancy, as-built maps, surveys and/or other documentation regarding the vegetated filter strip between the addition and the pool (shown on the Stormwater Management Plan), and building construction shall be submitted to the Commission staff to verify that the development work and new residence have been implemented in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, the required approvals from the Darien Health Department prior to the issuance of the required Zoning and Building Permits. The Commission understands that if the Health Department does not approve this plan, this project cannot proceed as designed, unless the property owner ties into the sanitary sewer system.
- H. 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 (July 19, 2012). This may be extended as per Sections 815 and 829f.

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.

Mr. Conze then read the next agenda item:

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.

Mr. Hutchison then made a motion to adopt the resolution as drafted. That motion was seconded by Mr. Spain, and was unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JULY 19, 2011**

Application Number: Coastal Site Plan Review #44-A
Land Filling & Regrading Application #261

Street Address: 227 Old King's Highway South

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 9 of 14

Assessor's Map #49 Lot #45

Name and Address of Property Owner: Leslie Sutton
227 Old King's Highway South
Darien, CT 06820

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

Activity Being Applied For: 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.

Property Location: 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.

Zone: R-1 and R-1/2

Date of Public Hearing: June 28, 2011

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

Publication of Hearing Notices
Dates: June 17 & 24, 2011 Newspaper: Darien News

Date of Action: July 19, 2011 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: July 29, 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, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 10 of 14

1. The request is 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 proposed addition is for a kitchen and family room above a two car garage, and a portion of the existing residence will be removed.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #7-2011 on May 4, 2011. The Zoning Board of Appeals granted a building height variance for this project— Calendar #22-2011 on June 22, 2011. Both of these approvals are hereby incorporated by reference.
3. Stormwater runoff from the proposed addition will be properly managed to address water quality. This will be achieved by installation of a rain garden to accommodate the first inch of each rainfall event. Since the property is directly adjacent to Gorham's Pond, stormwater shall not be detained on site, but water quality shall be addressed. Numerous plantings are proposed adjacent to Gorham's Pond as part of this application.
4. 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 (the proposed rain garden near Gorham's Pond) and the need to maintain said facilities to minimize any potential downhill impacts.
5. 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.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 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.
8. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #44-A and Land Filling and Regrading Application #261 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and associated stormwater management installation shall be in accordance with the plans entitled:

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 11 of 14

- Planting Plan, prepared for Leslie Sutton, by Environmental Land Solutions, LLC, dated April 19, 2011, Sheet PP.1.
 - Master Landscape Plan, prepared for Leslie Sutton, by Environmental Land Solutions, LLC, dated April 2011, Sheet LA.1.
 - Addition to Sutton Residence, 227 Old King's Highway South, by Sheldon Richard Kostelecky Architect, last revised 05.09.11, Drawings No. A-2 through A-6.
- B. 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.
- C. 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.
- D. As discussed at the Public Hearing, an above ground rain garden area will be created adjacent to Gorham's Pond. This will address water quality. Due to this property's proximity to Gorham's Pond, the Commission hereby waives the provisions of Section 888 of the Darien Zoning Regulations (Stormwater Management) with respect to detention of stormwater.
- E. By September 19, 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 227 Old King's Highway South to maintain the on-site drainage facilities (the rain garden), and will alert future property owners of the rain garden 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. Prior to the request for a Certificate of Occupancy (CO), a final "as-built" survey is hereby required to certify that all of the regrading, planting and other site improvements are all in compliance with the approved plans.
- G. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- H. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 12 of 14

owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.

- I. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, a Zoning and Building Permit for construction of the proposed addition.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Sections 815, 858, and 1009 of the Darien Zoning Regulations, including but not limited to implementation and completion of the approved plans for site work, regrading, rain garden installation and stabilization/re-vegetation of all disturbed areas within one year of this action (by July 19, 2012). This may be extended as per Sections 815, 858, and 1009.

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

Mr. Conze then read the next agenda item:

Site Plan Application #269-A/Special Permit Application #265, Land Filling & Regrading Application #225-A, Post Road 11, LLC, 1292 Boston Post Road, SB Zone.

Request to amend Adopted Resolution regarding special events/sales for approved antique shop.

Mr. Ginsberg reviewed the background information that he had submitted to the Commission. Mr. Spain asked whether there should be further analysis. Mr. Conze suggested having Mrs. Glassmeyer submit a letter with advanced notice to staff of any special sales, and how the parking will be addressed during those sales. Mr. Hutchison said that he would go a step further, and put the burden entirely on the property owner, Mrs. Glassmyer, to manage her responsibilities and manage her building and her parking. Mr. Conze agreed with that suggestion, noting that the Commission can see how it all works out. Mr. Hutchison emphasized that any change of tenants still requires Planning and Zoning Commission approval. Commission members agreed with Mr. Hutchison's suggestion, and Mr. Ginsberg will send a letter to Mrs. Glassmyer noting the Commission's decision in this matter to modify Condition G of the Adopted Resolution.

At about 8:45 p.m., Mr. Conze then read the next agenda item:

Amendment of Special Permit Application #39-J, St. Luke's Church, 1848-1864 Boston Post Road.

Requested renovation of Franklin House.

Attorney Wilder Gleason was present on behalf of St. Luke's Church. He said the building is proposed to be clad with vinyl siding, and they propose to tear off some porches and replace them with something slightly smaller. They are currently working on finalizing the design, and thus, no plans were being presented this evening. Mr. Gleason acknowledged that they will have to go to the Architectural Review Board (ARB) for review and action. He noted that what is driving this project is that they have to do something with the exterior. Mr. Spain was comfortable approving the concept to make to existing building smaller. Mr. Hutchison confirmed that any changes would of course be subject to review and action by the Darien Fire Marshal. Mr. Conze asked if all Commission members were comfortable with the approval of the modification of the Special Permit, subject to review and action by the Architectural Review Board. All Commission members agreed, and Mr. Ginsberg will write a letter to Attorney Gleason summarizing the Commission's approval in concept, subject to ARB review and action.

Mr. Conze read the next agenda item:

Flair Fitness, 49 Tokeneke Road, CBD Zone.

Attorney Wilder Gleason was present on behalf of both the existing tenant Flair Fitness, and the proposed co-tenant, Kempo Academy Martial Arts. He noted that Flair Fitness wishes to partner with Kempo Academy Martial Arts and each become tenants at 49 Tokeneke Road. Both of these are personal service businesses. They each offer instruction and incidental retail sales. There are two or three parking spaces now on-site at 49 Tokeneke Road. This subject space at 49 Tokeneke Road is approximately 1,500 square feet. Under the regulations, ten parking spaces should be provided for a personal service use, the same number needed for the existing retail use. Mr. Gleason believed that shared use of the space makes sense. Flair Fitness would use the space generally from 8:00 a.m. to early afternoon, with some evening classes. Kempo Martial Arts would use the space in late afternoon, mostly for children's lessons.

Mr. Gleason explained that drop off of patrons could occur on Center Street, rather than on Tokeneke Road which the Commission viewed as important for safety reasons. Mr. Gleason acknowledged that they will need formal Site Plan approval from the Planning and Zoning Commission, but at this point, he submitted a draft of a proposed floor plan. He also submitted a preliminary parking survey done on June 2nd, which showed plenty of parking being available nearby. Mr. Gleason noted that the maximum size of any class would be forty students for Flair Fitness, and twenty students for Kempo Martial Arts. He said that he can also arrange to have staff purchase parking permits, so they will not park right in front of the building. He noted that Flair Fitness wishes to increase class sizes from those now held at their 551 Boston Post Road site. Mr. Gleason confirmed that the 49 Tokeneke Road site is the former Darien Liquor Store.

Mr. Hutchison noted that having employees park off site makes sense. He agreed with a proposed drop off on Center Street. Mr. Conze suggested that Mr. Gleason return with the rational plan for proposed use of this Tokeneke Road space. Mr. Gleason asked whether they need a parking variance from the Zoning Board of Appeals, as they are changing from a retail use to a personal service use. Mrs. Riccardo noted that nearby parking fills up in this area of town during lunch time. Mr. Gleason said that Flair Fitness would be willing to agree to a stipulation that no more than five persons can be in any class held from 12:00 noon to 1:30 p.m., which would help avoid a lunchtime rush. Mr. Conze asked that Mr. Gleason return with a well thought-out plan, and work with staff on potential variance issues and parking concerns.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 19, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 14 of 14

Mr. Gleason noted that Flair Fitness is now located in the upstairs space at 551 Boston Post Road. He asked the Commission to allow Kempo Martial Arts to sublet and share this space with Flair Fitness now. He then distributed to the Commission members an August 9th, 2010 letter from David Keating. He noted that in response to Mr. Keating's concerns, Flair Fitness has resolved the noise complaints, and they have minimized parking impacts by having a short break between classes. Mr. Gleason said that they are requesting temporary approval for an amendment to allow Kempo Martial Arts to sublet the space and to increase the maximum class size from twelve to twenty for Flair Fitness and to allow twenty for Kempo Martial Arts. Mr. Gleason confirmed that they would like to have Flair Fitness increase to twenty students per class. Mr. Spain suggested giving this a six month approval until February 2012. Mr. Hutchison agreed that having feedback would be helpful for the Commission. Mrs. Amy Shelton of Flair Fitness said that they would like to have twenty students per class during the day, and up to forty students per class at night. Mr. Conze then summarized the proposal to allow Flair Fitness and Kempo Martial Arts to share the upstairs space at 551 Boston Post Road for the next six months, until February 28, 2012. They would each be allowed to have twenty students per class during the day, and either of them can have forty students per class after 5:00 p.m. The Commission unanimously agreed to amend their approval accordingly.

Approval of Minutes

April 26, 2011 Public Hearing/General Meeting

Mrs. Riccardo had some minor changes to the April 16 meeting minutes. The Commission members reviewed those proposed changes. Mr. Hutchison made a motion to approve the minutes as amended. Mrs. Riccardo seconded that motion, which was approved by a vote of 5-0.

June 7, 2011 Public Hearing/General Meeting

Mr. Hutchison made a motion to approve the minutes as written. Mr. Spain seconded that motion. The minutes were then approved by a vote of 3-0, with Mrs. Riccardo and Mr. Voigt abstaining, since they were not present at that meeting.

June 28, 2011 Public Hearing/General Meeting

Mrs. Riccardo had minor changes to the June 28th minutes. After the Commission members had time to review those changes, Mr. Voigt made a motion to approve the minutes as amended. That motion was seconded by Mr. Hutchison, and was approved by a vote of 5-0.

There being no other business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning and Zoning Director