

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JULY 26, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Hutchison, Cameron, Voigt (arrived at 9:05 p.m.), Riccardo (arrived at 9:05 p.m.)

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

Special Permit Application #267, Jacob & Jennifer Hyde, 16 East Trail. Proposing to install a batting cage to be used seasonally, and perform related site activities. The subject property is on the south side of East Trail, approximately 175 feet east of its intersection with Arrowhead Way, and is shown on Assessor's Map #65 as Lot #52, in the R-1 Zone. *POSTPONED TO SEPTEMBER 27, 2011.*

This matter has been postponed until September 27th. Chairman Conze read the following agenda item.

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.

Tom Ryder of Land-Tech Consultants explained that the subject property is adjacent to the long access driveway out to Hay Island. In February 2006, an application was approved to restore the tidal wetland area to the south of the driveway and that work was successfully implemented. In 2008, an application to restore the beach, install a pier on the south side of the driveway and remove six large trees was approved. The beach restoration project has been completed, but the tree removal was not done, pending further discussion with the Connecticut Department of Environmental Protection (DEP) regarding the proper location for a dock to be installed. They have since revised the dock location in accordance with the DEP recommendations and have received permits from the Connecticut DEP and the US Army Corps of Engineers for the installation of the dock into the protected cove on the north side of the driveway, rather than to the south as earlier planned. This project also includes the removal of the large *Phragmites* area on the north side of the driveway and restoration of that area. The dock facility will include the installation of a thirty-two foot long, six foot wide wooden pier, with a twenty-four foot long, two foot wide gangway and a float with float stops and padded rails adjacent to the shallow water areas. This would require the

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 2 of 17

installation of approximately ten pilings, some of which will be installed by barge and some of which will be installed from the land. The pier and dock facility will be located on the north side of the access driveway leading to Hay Island.

The second part of the project is phragmites removal and the wetlands restoration project. It too will be located on the north side of the access driveway. The *Phragmites Australis* is an invasive species that has taken over the area just above the land that is consistently covered with salt water. The *Phragmites* will be removed by use of an herbicide application in the spring. In the fall, the vegetation will be removed, along with twelve to eighteen inches of the existing soil. This will remove the *Phragmites'* roots, as well as lower the ground level, so that the area can be more frequently saturated with salt water. The *Phragmites* is not salt tolerant, and therefore will not reestablish itself in the area where the ground level has been lowered. Natural spread of seeds in that new lowered area will allow it to flourish with salt tolerant plants, hopefully *Spartina Alterniflora*. Mr. Ryder said that natural seeding of the excavated area will be better than using hand sown seeds or plant plugs. In higher areas, from which *Phragmites* will be removed, they will plant shrubs and other vegetation to stabilize the soil.

In order to perform the dock installation and *Phragmites* restoration, six large trees need to be removed. The removal of these trees was approved in 2008, but has not yet been implemented. Much of the tree removal area will be used for machine access and for stock piling and de-watering. Mr. Ryder reviewed photographs of the existing trees and of the existing stone wall and side conditions, including the *Phragmites* removal area. Mr. Ryder said that the proposed work will take several months during this year, and then again additional work in the coming years to make sure that the *Phragmites* have all been removed and that the excavated area has been properly revegetated.

Mr. Ginsberg said that the Army Corps of Engineers and the DEP permits have already been obtained and are in the file. He noted that the large trees to be removed were all deciduous maple trees, and that the past approval for the installation of the dock on the south side of the access driveway, into the waters of Long Island Sound, has not been implemented.

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

Chairman Conze read the following agenda item.

Coastal Site Plan Review #267, Flood Damage Prevention Application #302, Spencer F. Segura, 24 Tokeneke Trail. Proposing to construct a detached garage, cabana, modify the existing driveway, and perform related site development activities within regulated areas. The subject property is on the north side of Tokeneke Trail, approximately 400 feet south of its intersection with Runkenhage Road, and is shown on Assessor's Map #69 as Lot #24 and is located in the R-1 Zone.

Ted Milone represented the applicant and explained that the project involves the construction of a detached garage structure, a detached cabana structure, and modifications to the existing driveway. The property is in an AE Flood Zone with the expected flood elevation of eleven feet. He said that the slab of the proposed garage structure would be at elevation 9.5. No finished space would be located on the slab level of the garage. On the second floor of the proposed garage, they do propose

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 3 of 17

to create some finished floor space. Mr. Milone explained that the previously submitted plans had indicated that the second floor of the garage would be a guest suite. He submitted revised plans that clarify that the second floor would be an exercise room. It will not be an apartment or a dwelling unit.

Mr. Milone explained that the slab of the proposed cabana structure would be at elevation eight, so that it is adjacent to the swimming pool level. Mechanical equipment for the pool will be at or above the expected flood level, elevation 11.0. Mr. Milone said that that runoff from the garage and cabana will head toward the pond or stream. Rather than trying to delay or detain the storm water flow, they will instead be filtering it through a ten foot wide planting strip along the pond edge. This will improve water quality. It is not necessary to retain the storm water because this property is located on the southern portions of the drainage area. Mr. Milone said that the Darien Environmental Protection Commission (EPC) will continue to discuss this matter at their meeting of August 3rd. He hopes and expects that the application will be approved at that time. He said that the submitted map needs to be corrected to indicate that the adjacent property is owned by the Darien Land Trust, but it is not subject to an open space easement.

Mr. Ginsberg said that he has discussed this matter with the Environmental Protection Commission staff Richard Jacobson. Mr. Jacobson said that this is a simple permit application and now that the open space or easement issue has been corrected, it is expected that EPC will act on the application at its earliest convenience. Mr. Ginsberg said that Planning and Zoning Commission could close the public hearing pending the receipt of the EPC report. The application could be acted on in September. The other option is that the Planning and Zoning Commission could continue the public hearing to wait until the Environmental Protection Commission takes action.

The Planning and Zoning Commission asked about the installation of the propane tank. Mr. Milone responded that the propane tanks will be located on the ground. Commission members commented that cabana structure is more like a pergola with a roof. It does not have walls that enclose any finished or heated or living space. Therefore, it does not need to be located at or above the expected flood level.

Virginia Moynahan said that her property backs up to the site, and she is happy to find out that there will not be an apartment over the garage. She did express her concern about the use of loudspeakers in the cabana. Mr. Segura said that there are no outdoor speakers now, and he does propose to install one in the cabana, but he will keep the noise level under control.

There were no other comments from the public regarding the application. The following motion was made: That the Planning and Zoning Commission close the public hearing regarding this matter and that they will accept the report that the Environmental Protection Commission eventually submits. This motion was made by Ms. Cameron, seconded by Mr. Spain, and unanimously approved.

At about 8:30 p.m., Chairman Conze read the following agenda item.

Coastal Site Plan Review #261-A, Flood Damage Prevention Application #28-B, Land Filling & Regrading Application #2-B, Foster Kaali-Nagy, 144 Five Mile River Road. Proposing to construct a single-family residence, garage, and swimming pool and to perform related site development activities within regulated areas. The subject property is on the south side of Five

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 4 of 17

Mile River Road at its terminus, and is shown on Assessor's Map #67 as Lot #10 & #11, in the R-1/2 Zone.

Tom Ryder, of Land-Tech Consultants, explained that the plans currently before the Planning and Zoning Commission are substantially different than previous plans submitted and then withdrawn by a different applicant for this same property. He said that the property is located at the southern end of Five Mile River Road and is just north of Butler's Creek. The property is served by public water and public sewer. The current flood designation anticipates that the flood levels will reach eleven (11) feet at the house site. Mr. Ryder said that he understands that FEMA is considering a change to the map that would raise the expected flood level to elevation twelve (12). He said that the house has been designed to comply with the more stringent change that FEMA might implement.

Mr. Ryder explained that there are tidal wetlands and a high tide line illustrated on the maps and plans. These designations have been reviewed with the Connecticut Department of Environmental Protection (DEP) staff to make sure that they comply with the DEP specifications. He did meet with the DEP staff at the site on July 13th, 2011 to make sure that they were comfortable with the designations. Mr. Ryder reviewed the map of the proposed site development indicating that the proposed developed Building Coverage would be about 10.9% of the lot area. He also pointed out that in an attempt to save the large oak tree near the driveway, they will be performing limited and special grading around the oak tree's roots to minimize any impact. He said that the drainage from the garage structure would be discharged by a level spreader so that it can disperse toward the wet land. Drainage from the house and pool terrace will be directed into a bio-filtration basin proposed on the south side of the house. He noted that the driveway drains to the south, towards a vegetation strip that is located near the existing boat house. Mr. Ryder explained that the southern wall of the proposed development would be located to the north of the existing wall, but is the farthest extent of the high tide line. He said they do not propose any work within the Connecticut DEP jurisdiction. The proposed retaining wall, south of the proposed house, is outside of the DEP jurisdiction. Mr. Ryder mentioned that they will be asking the Connecticut DEP whether they want the existing stone wall at the high tide line to remain in its present condition and location, or whether the DEP would want that wall to be removed. He said that in either case, it does not affect the jurisdiction of the Town, nor does the Town need to authorize a permit if the DEP requires the wall to be removed.

Mr. Ryder reviewed the letter of support from Mr. Kane, the property owner located to the east. He said that Mr. Kane and the applicants have also worked out an agreement regarding the turnaround area to be created for emergency vehicles and this is defined in the proposed plans. He submitted copies of the letters from Mr. Kane. Mr. Ryder explained that he will continue to work with the Connecticut DEP in the office and at the site. He referred to the DEP's letter of July 26, but said that the final paragraph is confusing because the DEP is not sure whether any work is within their jurisdiction. He said if the DEP has any more specific comments, he will address any comments by making slight changes as necessary. Mr. Conze said that the proposed use of the site is very intensive, and that the Commission is very aware of the environmentally sensitive nature of the property. Mr. Ryder reaffirmed that he will resolve any of the DEP's issues or concerns. This may entail the installation of a construction fence or barrier to make sure that no unauthorized activity takes place within the DEP jurisdiction. He will submit revised plans if needed. He said the he and the DEP are in agreement with the designation of the high tide line at elevation 5.3, and that the location of the tidal wetlands line as flagged at the site.

Mrs. Cameron mentioned the July 26, 2011 e-mail from Todd Robbins. Mr. Ryder replied that he will revise the plan to reduce part of the terrace area and eliminate part of the wall proposed to the north of the swimming pool. He said that the entire development would involve the use of 510 cubic yards of fill. He also explained how the fresh water outlets of the storm drainage are not likely to create any *Phragmites* areas (*Phragmites* is not tolerant of salt marsh conditions, but can thrive where the salt concentration is not high enough due to dilution with fresh water).

Mr. Ginsberg read aloud the comments from the Southwestern Regional Planning Agency (SWRPA), contained within their response of July 12th, 2011. They recommend that the Commission verify that the drainage issues have been properly resolved. They found that there are no inter-municipal impacts due to the proposed development.

Sally Knowlton Keen, of 50 Edgehill Drive, noted that the Commission is already aware of the very sensitive marsh area adjacent to the subject property. She is very concerned that the area that is adjacent to the proposed development might be modified to somehow become mud flats rather than the thriving marsh conditions. She said that one of the concerns is that the project will involve digging into the bedrock to perform some of the site work. She is very concerned that other projects that are ongoing in the area each will have a slight impact on the marsh, such that the total impact of all this development activity will end up being substantial. She emphasized that the Commission must be very sensitive to the protection and preservation of the marsh.

Todd Robbins, of 7 Edgehill Drive, spoke on behalf of his wife who owns the property. He said that everyone recognizes that this is a building site, but the main concern of the proposed development is the potential impact on the marsh. He said that he and the neighbors support this revised application subject to some modifications. He said the flooding conditions need to be addressed and that his comments are contained in the July 26, 2011 e-mail that has been forwarded to the Commission.

The Planning and Zoning Commission believed that the comments from the Department of Environmental Protection (DEP) need to be clarified and that public hearing should be continued to September in order to obtain that clarification. They also noted that even if the public hearing were closed tonight, no action would be taken until September. The following motion was made: That the Commission continue the public hearing regarding this on September 6, 2011. The motion was made by Mr. Hutchison, seconded by Mr. Spain, and unanimously approved.

GENERAL MEETING

The following motion was made: that the Commission waive the process of read the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Spain, and unanimously approved. At about 9:00 p.m., Chairman Conze read the following agenda item.

Discussion, deliberation and possible decision 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.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 6 of 17

The Commission members briefly discussed the proposed resolution regarding the Banner application. The following motion was made: That the Commission adopt the resolution to approve the project subject to conditions and stipulations as noted. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor of the motion, except Mrs. Cameron who abstained because she had not been able to attend the meeting. The motion passed by a vote of 3 to 0 with one abstention. The Adopted Resolution reads:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2011**

Application Number: Land Filling & Regrading Application #262

Street Address: 11 Archer Lane
Assessor's Map #42 Lot #112

Name and Address of Applicant & Property Owner: Kelly Banner
11 Archer Lane
Darien, CT 06820

Name and Address of Applicant's Representative: Neil Brunetti
Odd Job Company
25-13 Old King's Highway North
Darien, CT 06820

Activity Being Applied For: Proposing to regrade the back yard and construct associated retaining wall to create a more level yard and perform related site activities.

Property Location: The subject property is on the northwest side of Archer Lane, approximately 450 feet west of its intersection with Fitch Avenue.

Zone: R-1/3

Date of Public Hearing: June 28, 2011 continued to July 19, 2011

Time and Place: 8:00 P.M. Room 206 & 119 Town Hall

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

Date of Action: July 26, 2011 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: August 5, 2011 Newspaper: Darien News

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

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 7 of 17

- the proposed activities must comply with all provisions of Sections 361, 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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

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

1. The subject application is to regrade the back yard and construct an associated retaining wall to create a more level yard and perform related site activities. At the June 28, 2011 public hearing it was explained that a continuation of the public hearing was desired so that the applicant's representative could work on addressing concerns brought forth by a professional engineer who had been hired by a neighbor. The public hearing was continued to July 19, 2011, and at that time, revised plans dated July 5, 2011 were presented.
2. Mr. Neil Brunetti, the applicant's representative, explained at the July 19, 2011 public hearing that the application is to cut into the existing embankment not exceeding four feet toward the west in the rear yard, 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 propose to funnel water to the existing catch basin, which will pipe it into a cultec system within the front yard. The twelve inch drain will be changed to an eighteen inch drain, and will be moved to the low point of the yard.
3. Questions arose during the public hearing regarding the possibility of installing a curtain drain near the field stone patio; whether there has been any maintenance done on the cultec units since their installation about three or four years earlier; and the possibility of moving the yard drain to catch additional stormwater.
4. This project was reviewed and approved by the Darien Environmental Protection Commission (EPC) as part of EPC #21-2011 on June 1, 2011. That approval is hereby incorporated by reference.
5. One neighbor spoke at the public hearing and noted his concern with the proposed on-grade patio. It was explained that on-grade patios require a setback of eight feet. The applicant's representative said that the proposed patio will be at least eight feet from the northern property line. There were no other oral or written comments from neighbors.
6. 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

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 8 of 17

existing on-site drainage facilities (the cultec unit(s) in the front yard) and the need to maintain said facilities to minimize any potential downhill impacts.

7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #262 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:
 - Banner Residence, 11 Archer Lane, Backyard Landscape Grades, scale 1"=10', dated May 15, 2011 and revised July 5, 2011, prepared by Odd Job Company.
- B. 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.
- C. As discussed at the Public Hearing, there is now a cultec unit within the front lawn of the property. That was installed when the house was constructed in 2007. The Commission hereby waives the provisions of Section 880 of the Darien Zoning Regulations (Stormwater Management) with respect to detention of stormwater--as specifically allowed under subsection 888a(4)—as there was a prior application which accounted for stormwater management, and that drainage structure is still in place. The Commission notes that the proposed reduction of the slope in the back yard, combined with the minor relocation of the existing yard drains, will improve the existing drainage situation.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted plan 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.
- E. By September 26, 2011 (within the next 60 days) and prior to the issuance of any necessary Zoning or Building Permit for the proposed retaining wall construction and prior to the start of any filling or regrading work around the house, the property owner shall submit a Drainage Maintenance Plan to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval of the Plan 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 11 Archer Lane to maintain the on-site drainage facilities (the cultec unit in the front yard), and will alert future

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 9 of 17

property owners of that system 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. At the public hearing, it was noted that although the cultec units were placed within the front yard as part of the house construction in 2007, maintenance on that system has not yet occurred. By December 31, 2011, the property owner shall inspect and perform maintenance on the cultec unit as required by the Drainage Maintenance Plan required by Condition E, above. Certification of such shall be submitted to the Planning and Zoning Department.
- G. At the public hearing, the applicant's representative noted that the yard drain on the southwest corner of the house which now exists on the property would catch more water if it was moved slightly and lowered by a few inches. As a condition of this approval, the Commission hereby requires that the southerly yard drain be moved to the proper low point of the rear yard as described at the public hearing, in order that additional water can be captured by that yard drain.
- H. A final, written certification shall be submitted at the completion of work, no later than July 26, 2012. This shall include certification that the proposed on-grade patio is at least eight feet from the northern property line as required by Section 361 of the Darien Zoning Regulations.
- I. 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.
- J. The granting of this approval does not relieve the property owner of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 26, 2012). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form 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, excavation and regrading work, or this approval shall become null and void.

Chairman Conze read the following 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.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 10 of 17

Commission members discussed the draft resolution and asked Mr. Ginsberg to include a finding regarding the unique location and topography of the site, and the fact that if the septic system were to leak, the leachate would drain inland, not toward Long Island Sound. All members agreed on the clarification. The following motion was made: That the Commission adopt the revised resolution and to approve the project subject to conditions and stipulations as noted. The motion was made by Mr. Spain and seconded by Mr. Hutchison. All voted in favor of the motion, except Mrs. Cameron who abstained because she had not been able to attend the meeting. The motion passed by a vote of 3 to 0 to 1. The Adopted Resolution reads:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2011**

Application Number: Coastal Site Plan Review #268

Street Address: 39 Contentment Island Road
Assessor's Map #68 Lot #14

Name and Address of
Property Owner: Nancy Dauk
11 Tory Hole Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Douglas DiVesta, PE
DiVesta Civil Engineering Assoc., Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Name and Address of
Applicant: Mr. Bo Malpass
Warrington Homes
98 Pear Tree Point Road
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is on the south side of Contentment Island Road, approximately 1,200 feet west of its intersection with Shennamere Road.

Zone: R-1

Date of Public Hearing: July 19, 2011

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: July 8 & 15, 2011

Newspaper: Darien News

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 11 of 17

Date of Action: July 26, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
August 5, 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 subject application is 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 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.
2. Part of the proposed septic system is within one hundred feet of mean high water. The proposal shown on the plans includes two septic tanks and two pump chambers (one at each building) and a single leaching area to be used by both buildings. It has been reviewed by the Darien Health Department, and the State of Connecticut Department of Health has approved an exemption to allow the central septic system to serve both structures subject to the applicant exploring the possible use of a single septic tank and pump chamber for both structures.
3. Even though the proposed septic system is in the CAM area, the land rises so that if there were any outflows, it wouldn't just flow to Long Island Sound, due to the terrain in this specific situation.
4. 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.
5. The proposed activities' potential adverse impacts on coastal resources, as modified within this resolution, are acceptable.
6. The proposed activities, as modified within this resolution, are consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 12 of 17

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 #268 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to compliance with the State Health Department exemption and final approval from the Darien Health Department, the installation of the septic system shall be in accordance with the following plans submitted to and reviewed by the Commission, entitled:
 - Proposed On-site Subsurface Sewage Disposal System, Dauk Residence 39 Contentment Island Road, by DiVesta Civil Engineering Associates, Inc., last revised 06/20/11, Sheet 1 of 2.
 - Details, Dauk Residence 39 Contentment Island Road, by DiVesta Civil Engineering Associates, Inc., last revised 06/20/11, Sheet 2 of 2.
- B. Because of the location of the property directly adjacent to Long Island Sound, and the fact that there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- C. During the implementation of this project, the applicant shall utilize the sediment and erosion control measures 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.
- D. Upon completion of the work, and no later than July 26, 2012, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this 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. Approval from the Darien Health Department is required for this work.
- G. This permit shall be subject to the provisions of Section 815 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 26, 2012). This may be extended as per Section 815.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 13 of 17

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.

Chairman Conze read the following 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.

Mr. Ginsberg said that Mrs. Riccardo had submitted a number of comments. The Commission members reviewed the revised draft of the resolution, and all members agreed with the clarifications as suggested by Mrs. Riccardo. The following motion was made: That the Commission adopt the following resolution to approve the application subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor of the application, except Mrs. Cameron who abstained because she had not been able to attend the meeting. The motion passed by a vote of 3 to 0 to 1. The Adopted Resolution reads:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2011**

Application Number: Amendment of Land Filling & Regrading Application #207-B(2)

Street Address: 54 Sunswyck Road
Assessor's Map #62 Lot #22-2

Name and Address of Property Owner William & Rose-Marie Shanahan
5 Conant Place
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Activity Being Applied For: Proposing to excavate and regrade and to perform related site activities at the now-vacant lot located at 54 Sunswyck Road.

Property Location: The subject property is located on the east side of Sunswyck Road, approximately 650 feet south of its intersection with Tory Hole Road.

Zone: R-1 Zone

Date of Public Hearing: July 19, 2011

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 14 of 17

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: July 8 & 15, 2011

Newspaper: Darien News-Review

Date of Action: July 26, 2011

Action: APPROVED WITH
CONDITIONS

Scheduled Date of Publication of Action:
August 5, 2011

Newspaper: Darien News-Review

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

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

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

1. The subject application is to excavate and regrade and to perform related site activities at the now-vacant lot located at 54 Sunswyck Road. The purpose of this is to install a stone wall generally parallel to Sunswyck Road. No house development plans are part of the subject application.
2. At the July 19, 2011 public hearing, revised plans were submitted. Those revised plans showed additional excavation near Sunswyck Road. The purpose of this was to have a three foot high wall proposed along the front property line of 54 Sunswyck Road. Originally, this wall would have extended along the side property line to the east (adjacent to the Mercein property), however, the plan is now for the wall to be only generally parallel to Sunswyck Road, and not along the east property line.
3. At the public hearing, it was noted that the Darien Health Director, David Knauf, sent an e-mail dated July 19, 2011 for the record in this matter. That e-mail read as follows: "*We have reviewed the proposed stonewall location and all parties are aware of possible limitations imposed by the construction of the wall. Therefore this office has no objection with this proposal. Should development on this lot be proposed, detailed plans for septic system design will be required taking wall construction specifics into account.*" An e-mail from Wilder Gleason notes that prior plans had been approved by the Darien Health Department for a 5-bedroom septic system. Any future house plans with associated septic system plans may be impacted by the excavation/regrading and installation of this wall. That will be determined by

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 15 of 17

the Darien Health Department. Any development of the vacant lot at 54 Sunswyck Road is not the subject of this application.

4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Amendment of Land Filling and Regrading Application #207-B(2) is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Proposed Wall at Sunswyck Road Overall Plan, by Gregory Lombardi Design Incorporated, scale 1"=20', dated June 20, 2011 and last revised 7/15/2011, Sheet L1.00.
 - Proposed Wall at Sunswyck Road Erosion Control Plan, by Gregory Lombardi Design Incorporated, scale 1"=20', dated June 20, 2011 and last revised 7/15/2011, Sheet L2.00.
 - Proposed Wall at Sunswyck Road Details and Notes, by Gregory Lombardi Design Incorporated, scale as noted, dated June 20, 2011 and last revised 7/15/2011, Sheet L3.00.
 - Proposed Wall at Sunswyck Road Overall Planting, by Gregory Lombardi Design Incorporated, scale 1"=16', dated June 20, 2011 and last revised 7/15/2011, Sheet L4.00.Note that the 11" x 17" version of all of these submitted plans show a revision date of 2/15/2011.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. The applicant is fully aware that installing the wall and the excavation/regrading of the site that they propose, can, and likely will, reduce or in some way impact the amount and extent of development that can eventually occur on this currently vacant property.
- C. During the excavation, regrading and site work, the applicant shall utilize the sediment and erosion controls illustrated on the plan referred to in Item A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Upon completion of the work, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans.

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 16 of 17

- E. As discussed at the Public Hearing, weepholes will be periodically placed within the proposed stone wall. The existing lot at 54 Sunswyck Road is now vacant. The Commission hereby waives the provisions of Section 880 of the Darien Zoning Regulations (Stormwater Management) with respect to detention of stormwater--as specifically allowed under subsection 888a(3)—the nature of the work proposed in the application. The Commission notes that no new impervious surface is being created, other than the top of the wall. Any future development of the now-vacant lot will require stormwater management per Section 880, and thus, drainage will be fully addressed at that time.
- 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. Any work within the Sunswyck Road right-of-way (tree removal, excavation and regrading, and/or stone wall installation), may require review, permits, and/or approvals from the private association who owns Sunswyck Road.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 26, 2012). This may be extended as per Sections 858 and 1009.

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

Approval of Minutes

July 19, 2011 Special Meeting—Public Hearing/General Meeting

Mr. Ginsberg distributed a copy of the revised draft incorporating comments and clarifications from Mr. Spain and Mrs. Riccardo. The following motion was made: That the Commission adopt the revised draft of the minutes. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor of the motion, except Ms. Cameron, who abstained because she had not been able to attend the meeting. The minutes were thus adopted by a vote of 3 to 0 to 1.

At about 9:05 p.m., Mr. Voigt and Mrs. Riccardo joined the meeting.

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

The following motion was made: That the Commission consider “Other Business”, including: 358 Hoyt Street, 21 Tokeneke Road, Harper’s restaurant, and 1292 Boston Post Road. The motion was

PLANNING AND ZONING COMMISSION
MINUTES OF JULY 26, 2011
PUBLIC HEARING/GENERAL MEETING
PAGE 17 of 17

made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor of the motion to consider "Other Business".

Mr. Ginsberg explained that an existing house at 358 Hoyt Street is located within the flood hazard zone, and the basement is currently below the expected flood level. Rather than requesting a variance, the applicant has submitted a design certified by an engineer that the basement area will be filled, and the entire house will then become compliant with the Flood Damage Prevention regulations. Since there is no external work, the staff did not believe the application needed to come before the Planning and Zoning Commission, but he wanted the Commission members to know that the Flood Damage Prevention regulations were being properly implemented. The Commission members appreciated the information.

21 Tokeneke Road is the Little Red Schoolhouse building that is the subject of a Special Permit, and because the on-site parking space requirement has been waived due to the participation of the property in the municipal parking expansion program, any change of use is subject to Commission review and approval. Mr. Ginsberg explained that D'Iorio Printing proposes to occupy the Tokeneke Road side of the first floor of the building. This is a business that does have some walk in traffic, but is largely dependent on standing orders. Commission members believed that the first floor use by the printing business was quite appropriate for the current situation.

Mr. Ginsberg explained that Harper's restaurant on the Boston Post Road at the corner of Birch Road is no longer in business. A new restaurant which features charcoal fired pizza is proposed. The use is the same but special provisions must be made to make sure that the cooking odors are properly contained and controlled. No action by the Commission is necessary.

Mr. Ginsberg explained that Penny Glassmeyer has demolished the building at 1292 Boston Post Road and is in the process of constructing a large retaining wall that will extend along the back edge of the parking area and the back wall of the building. Work on the building will proceed in accordance with the plans approved by the Commission.

Mr. Ginsberg said that the next meeting of the Planning and Zoning Commission will be on September 6, 2011. It will be a public hearing and a general meeting.

There being no further business, the following motion was made: That the Commission adjourn at 9:10 p.m. The motion was made by Mr. Spain, seconded by Mrs. Riccardo, and unanimously approved.

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

Respectfully submitted,

David J. Keating
Assistant Planning and Zoning Director