

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
OCTOBER 4, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Spain, Hutchison, Cameron, Riccardo, Voigt

STAFF ATTENDING: Ginsberg

RECORDER: Syat

Channel 79

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

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #257-A, Flood Damage Prevention Application #289-A, Land Filling & Regrading Application #245-A, Dale & Hillary Miller, 5 Tokeneke Beach Drive. Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Beach Drive approximately 500 feet south of its intersection with Contentment Island Road, and is shown on Assessor's Map #67 as Lot #67, and is in the R-1 Zone. *ORIGINALLY OPENED ON 9/6/2011.*

Mr. Spain announced that this item had been withdrawn by the applicant.

GENERAL MEETING

Amendment of Special Permit #73-B, Coastal Site Plan Review #192, Darien Boat Club, 135 Pear Tree Point Road.

Request to abandon existing septic system and tie into the sanitary sewer system.

Mr. Ginsberg explained the request, and summarized the submitted two-page letter dated September 27, 2011. Mr. Spain noted that the proposal is to have the new sewer connection used for both pump-out sewage from boats as well as the Club members' bathrooms inside the Boat Club. Mr. Ginsberg noted that the request had been approved by the Darien Health Department, Sewer Commission, and State of Connecticut DEEP. There will be no changes to the membership or the activities of the Club. Mr. Spain confirmed that there will be no impact to the vistas at the Club site. Mr. Voigt asked whether this has been designed to deal with flooding. Mr. David Dever of the Boat Club confirmed that the project has been designed to address flooding. Ms. Cameron made a motion to approve the project. That motion was seconded by Ms. Riccardo and was unanimously approved.

Mr. Spain then read the next agenda item:

Business Site Plan #138-A/Special Permit, Wm. Raveis Real Estate, 22 Old King's Highway South

Request for extension of time to commence construction.

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Mr. Gisenberg summarized the September 27, 2011 letter from architect Loren Meyer requesting an extension of time to commence construction of this project. Mr. Hutchison noted that he will be recusing himself from voting on this request, since he recused himself from voting on the original application. Mr. Voigt made a motion to approve the extension of time. That motion was seconded by Ms. Riccardo and was approved by a vote of 4-0, with Mr. Hutchison recusing himself. The Commission confirmed that they are granting an extension of time until September 7, 2012 for this project.

Mr. Spain then asked if the Commission would make a motion to waive the reading of the draft resolutions aloud. That motion was made by Ms. Cameron, seconded by Mr. Hutchison and unanimously approved. Mr. Spain then read the next agenda item:

Discussion, deliberation and possible decision on the following public hearings closed on September 27, 2011.

Land Filling & Regrading Application #263, Lot Line Adjustment/Amendment of Subdivision #370-B, William Storrs Morehouse, 15 Morehouse Drive. Proposing to fill and regrade in association with a new residence and driveway, install associated stormwater management, adjust a shared lot line with Lot #11 (21 Morehouse Drive) and perform related site development activities. *DECISION DEADLINE: 12/1/2011.*

Mr. Hutchison made a motion to adopt the resolution as written. That motion was seconded by Ms. Cameron, and was approved by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2011**

Application Number: Land Filling & Regrading Application #263,
Lot Line Adjustment/Amendment of Subdivision #370-B
William Storrs Morehouse, 15 Morehouse Drive

Assessor's Map #15 Lot #12
Addresses of Subject Property: 15 Morehouse Drive

Name and Address of Applicant & Property Owner: William Storrs Morehouse
5 Morehouse Drive
Darien, CT 06820

Name and Address of Applicant's Representative: Teodoro Milone, PE
Redniss & Mead, Inc.
22 First Street
Stamford, CT 06905

Activity Being Applied For: Proposing to fill and regrade in association with a new residence and driveway, install associated stormwater management, adjust a shared lot line with Lot #11 (21 Morehouse Drive) and perform related site development activities.

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Property Location: The subject property is on the east side of Morehouse Drive, approximately 450 feet north of its intersection with Prospect Avenue.

Zones: R-1/2

Date of Public Hearing: September 27, 2011

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

Publication of Hearing Notices

Dates: September 16 & 23, 2011

Newspaper: Darien News

Date of Action: October 4, 2011

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 14, 2011

Newspaper: Darien News

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 properties were established as part of a 1967 subdivision, approved by the Planning and Zoning Commission before the adoption of inland wetlands and watercourses protection regulations. This lot has remained vacant since that time.
2. The purpose of the lot line adjustment is to give slightly more land in the northwest corner of the property to the adjacent property to the north (21 Morehouse Drive). A separate application to develop 21 Morehouse Drive is still pending with the EPC.
3. The Environmental Protection Commission (EPC) approved this application for the development of 15 Morehouse Drive as part of EPC #27-2011 on September 21, 2011. That approval is hereby incorporated by reference.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.

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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 Land Filling & Regrading Application #263, Lot Line Adjustment/Amendment of Subdivision #370-B are hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading and associated work shall be in accordance with the plans submitted to the Commission entitled:
- Site Development Plan depicting #15 Morehouse Drive prepared for William Storrs Morehouse, by Redniss & Mead, dated 6/15/2011, and last revised 8/17/11, Drawing No. SE-1.
 - Sediment & Erosion Control Plan depicting #15 Morehouse Drive prepared for William Storrs Morehouse, by Redniss & Mead, dated 6/15/2011, and last revised 8/17/11, Drawing No. SE-2.
 - Soils Data & Details depicting #15 Morehouse Drive prepared for William Storrs Morehouse, by Redniss & Mead, dated 6/15/2011, and last revised 8/17/11, Drawing No. SE-3.
 - Environmental Planting Plan 15 Morehouse Drive, Lot 3, Darien CT, by Environmental Land Solutions, LLC, dated June 15, 2011.
- The lot line revision shall be in accordance with the plans filed with the Commission entitled:
- Zoning Location Survey depicting Proposed Residence Lot 3 Map 3440 DLR, prepared for Polly Miles Morehouse, by Redniss & Mead, dated 06/15/2011, and last revised 9/16/2011.
 - Property Survey depicting adjustment of Lot Lines Lots 3 & 4 on Map 3440 DLR, prepared for Polly Miles Morehouse, by Redniss & Mead, dated 06/15/2011.
- B. During the project, the applicant shall utilize sediment and erosion controls shown on the plans and any additional anti-tracking pads, temporary sediment basins, and/or other sediment and erosion control 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. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Due to the scope of the proposed work, the provision of a Performance Bond is hereby waived.
- D. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the new house, the applicant shall submit verification from the project engineer that all aspects of the site regrading and storm drainage system installation have been completed in compliance with the approved plans.
- E. It is understood that the application to develop the adjacent property at 21 Morehouse Drive is still pending with the EPC and that the revisions to the lot line are somewhat dependent on what does or does not get approved by the EPC. The development of 15 Morehouse Drive in accordance with this approval is not dependent on the lot line adjustment, thus, whether the lot line adjustments are implemented or not, the land filling and regrading approved herein shall remain valid.

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- 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, a Street Opening Permit from the Darien Public Works Department.
- H. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 4, 2012). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall also be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Spain read the next agenda item:

Business Site Plan #232-A/Special Permit, Amanda Smith Caterers, LLC, 7 Tokeneke Road.
Proposing to continue the first floor catering business and to serve food and drink for a take-out cafe.
DECISION DEADLINE: 12/1/2011.

Ms. Riccardo and Mr. Spain noted the need for access to the Dumpster/garbage cans which now exist on the property and are shared amongst many tenants. Condition E of the draft resolution was then modified accordingly. The Commission noted that this will be mostly for take-out food, and thus, much of the trash will likely be taken off-site by the customer(s). Mr. Hutchison noted that the landlord will have to handle trash issues. Mr. Spain confirmed that Condition E notes that there will be no new Dumpster sited as part of this project. Ms. Cameron made a motion to adopt the resolution as modified. That motion was seconded by Ms. Riccardo, and was approved by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2011**

Application Number: Business Site Plan #232-A/Special Permit

Name of Business: Amanda Smith Caterers, LLC
Street Address: 7 Tokeneke Road
Assessor's Map #72 Lot #50

Name and Address of Applicant: Madalene d'Etiveaud
And Applicant's Representative: c/o Amanda Smith Caterers, LLC
134 Shore Road
Old Greenwich, CT 06870

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Name and Address of Property Owners: 7 Tokeneke Road, LLC
c/o John Doherty/Ken Deleo
7 Tokeneke Road
Darien, CT 06820

Activity Being Applied For: Proposing to continue the first floor catering business and to serve food and drink for a take-out cafe.

Property Location: Subject property is located on the southwest side of Tokeneke Road, approximately 50 feet south of its intersection with Boston Post Road.

Zone: CBD Zone

Date of Public Hearing: September 27, 2011

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

Publication of Hearing Notices

Dates: September 16 & 23, 2011

Newspaper: Darien News

Date of Action: October 4, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 14, 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 650, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant 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. As noted at the public hearing by the applicant, the proposal is to establish a catering business and serve prepared foods for "take-out", in the space formerly occupied by Alpine Bakery, and most recently Patricia Blake Catering. The proposal includes four tables and eight chairs for patrons. The catering business is allowed by right in the CBD zone, but the sale of food on-site for "take-out" or "eat-in" requires this Special Permit. A proposed floor plan was submitted for the first floor. The basement area is to be used only for storage.

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2. The subject application is only for interior seating. No outdoor seating is proposed. Any future request for outdoor seating shall be subject to review and action by the Planning & Zoning Commission.
3. The applicant noted that parking is available in the front of the building along Tokeneke Road, and behind the building in the Center Street municipal parking lot.
4. The site plan 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 Business Site Plan #232-A/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Renovations to the interior of the building shall be in accordance with the plan submitted to the Commission entitled, "Amanda Smith Caterers, Floor Plan – 'A', scale ¼"=1'-0"". This plan may need to be revised in response to concerns, requirements or comments from the Darien Fire Marshal, Health Department and/or Building Official.
- B. The approved use is for take out and eat-in food in conjunction with the off-site catering service. There will be an office/consultation area for customers to discuss their catering needs. There may also be up to four tables and eight seats at which the customers can consume food or beverage on the site.
- C. As part of the application, the applicant noted a number of conditions which include:
 - not more than four persons employed at the site at any given time;
 - use of basement for storage only.
- D. The hours of operation may be 6:30 a.m. until 6:00 p.m. Prior to any increase or expansion of hours, the applicant shall return to the Planning and Zoning Commission for its review and action.
- E. Disposal of waste and trash must be in a clean and sanitary manner. No additional exterior dumpster has been proposed, therefore none can be installed or utilized unless /until details of its location, size and screening are submitted to the Commission for review and action.
- F. Necessary precautions shall be taken by the applicant and all future operators of the business to minimize and/or eliminate smell and odor from being exhausted from the facility because uncontrolled smell or odor would negatively affect the adjacent residential units, businesses and properties
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- H. The granting of this Business Site Plan/Special 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.
- I. This permit shall be subject to the provisions of Section 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 4, 2012). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, as approved or as required herein to be amended, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records on or before December 4, 2011, in order to finalize this approval.

Mr. Spain then read the next agenda item:

Coastal Site Plan Review #241-A, Flood Damage Prevention Application #270-A, Ian M. Duncan, 87 Nearwater Lane. Proposing to extend the pier to the High Tide Line and reinstall the steps within regulated areas. *DECISION DEADLINE: 12/1/2011.*

Ms. Riccardo made a motion to adopt the resolution as written. That motion was seconded by Mr. Voigt, and was approved by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 4, 2011**

Application Number: Coastal Site Plan Review #241-A
Flood Damage Prevention Application #270-A

Street Address: 87 Nearwater Lane
Assessor's Map #52 Lot #4

Name and Address of Applicant's Representative: D. Bruce Hill, Esq.
Law Office of Bruce Hill, LLC
23 Old King's Highway South
Darien, CT 06820

Name and Address of Property Owner: Ian M. Duncan
And Applicant: 87 Nearwater Lane
Darien, CT 06820

Activity Being Applied For: Proposing to extend the pier to the High Tide Line and reinstall the steps within regulated areas.

Property Location: The subject property is on the west side of Nearwater Lane, approximately 400 feet south of its intersection with Nickerson Lane.

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Zone: R-1 Zone

Date of Public Hearing: September 27, 2011

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

Publication of Hearing Notices

Dates: September 16 & 23, 2011

Newspaper: Darien News

Date of Action: October 4, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 14, 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 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 extend the pier to the High Tide Line and reinstall the steps within regulated areas. In March 2009, the Planning and Zoning Commission granted approval for a dock that had been approved by the Connecticut DEP. The applicant's original proposal had been a pier extending from High Tide Line to Holly Pond, but the DEP required that the pier be shortened and only be from Mean High Tide out to the pond. After construction, the property owner found that wetlands were being impacted via the property owner's access to the water. This application is an effort to resolve that situation. The new pier will be 58 feet longer, and have the same width and height.
2. On June 17, 2011, the State of Connecticut DEP (now DEEP) approved the plans to extend the existing pier. A copy of that permit approval (Permit #201100793-KR) has been submitted for the record, and is hereby incorporated by reference. As part of this application referral process, the DEP noted in a September 8, 2011 e-mail that since they have issued a permit for this project, they find no inconsistencies with the Connecticut Coastal Management Act.
3. The Darien Environmental Protection Commission (EPC) approved this project as part of EPC #34-2011 on September 7, 2011. That approval is hereby incorporated by reference.

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4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. 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.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
7. 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.
8. 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 #241-A and Flood Damage Prevention Application #270-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - “Permit Application for Residential Pier Construction Ian M. Duncan, 87 Nearwater Lane” by Roberge Associates Coastal Engineers, LLC, last revised 3/07/11, Drawing No. 5 of 5.
- 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. 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. 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.
- D. Prior to October 4, 2012, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed 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.

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- 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 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.
- G. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 4, 2012). This may be extended as per Section 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.

There being no other business, the meeting was adjourned at 8:17 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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