

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
OCTOBER 18, 2011**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

Amendment of Special Permit #245, Infinity Fitness, LLC, 264 Heights Road. Proposing to establish a new Indoor Recreational Facility (fitness studio) use in the ground floor space underneath Palmer's Market, in the space formerly occupied by Darien Physical Therapy Center. *POSTPONED UNTIL OCTOBER 25, 2011.*

Mr. Ginsberg noted that this item has been postponed to next week. Mr. Conze then read the next agenda item:

Special Permit Application #269, Graham & Jennifer Foster, 36 Crooked Mile Road. Proposing to construct an outdoor recreation court ("sports court") in the northern portion of the yard and perform related site development activities. The subject property is located on the south side of Crooked Mile Road approximately 1,500 feet southwest of its intersection with Hollow Tree Ridge Road and is shown on Assessor's Map #3 as Lot #49 and is located in the R-2 Zone.

Attorney Robert F. Maslan, Jr. was present on behalf of the property owners. He explained that neighbor notices had been submitted for the record in this matter. He submitted an e-mail from David Knauf of the Darien Health Department noting that the septic issue has been resolved. Mr. Maslan explained that the subject property is 2.387 acres, and there are wetlands on the western part of the property. The application is to build a sport court, meeting all local setbacks and other zoning regulation requirements. He then showed photographs from promotional materials illustrating what such a sport court would look like.

Mr. Ted Milone, Professional Engineer from Redniss & Mead, explained that the sport court would be .05 acres of impervious coverage. They need to be at least 25 feet from the septic reserve area which now exists. There will be an 18 inch wide crushed stone inlet to be added. Mr. Milone explained that the Darien DPW noted the need to control the peak rate of runoff. A 4 inch pipe and riprap splash pad has been added in the revised plans last dated 10-18-2011.

Mr. Maslan explained that there are no lights proposed as part of this application, and some existing trees will remain as shown on the submitted plans.

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Mr. Spain then asked about the distance from the sport court to the nearest residence on any adjacent property. Mr. Graham Foster, the property owner, explained that the Miller house on Crooked Mile Road is the closest adjacent residence. It is approximately 75 feet to 90 feet away. He then showed the approximate location of other nearby houses.

There were no neighbors who wished to speak on the application, and the Commission had no further questions or comments. Mrs. Cameron made a motion to close the public hearing on this matter, that motion was seconded by Mr. Spain and unanimously approved.

At about 8:12 P.M., Mr. Conze then read the next agenda item:

Business Site Plan #24-R/Special Permit, Koko FitClub, 25 Old King's Highway North. Proposing to establish a new Indoor Recreational Facility use (automated personal training studio) in the space currently occupied by Stride Rite. The subject site is located within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road, and is shown on Assessor's Map #71 as Lot #19, in the DC Zone.

Mr. Steve Powell, the proposed tenant, was present to explain the application. He noted that he wishes to locate the business within Goodwives Shopping Center in a portion of the space now occupied by Stride Rite. Stride Rite has two spaces and they will be reducing down to one space.

Mr. Powell explained that KoKo FitClub is a computer driven automated system. It consists of the ½ hour training for his clients. Clients come in at their leisure, and there are no scheduled classes. There is typically one employee on site. Mr. Powell explained that the business will be manned from approximately 8:00 A.M. to 6:00 or 7:00 P.M. and will be unmanned from 5:00 A.M. to 8:00 A.M. and from 7:00 P.M. to 11:00 P.M. There is general background, quiet radio music within the building, as described in the submitted application materials. Mr. Powell explained that Club members have swipe keys to get in and out of the building.

Mr. Ginsberg noted that this is considered an indoor recreational facility use which requires a Special Permit in the DC Zone. He noted that it is similar to the YMCA Gymnastics facility which is now also in Goodwives Shopping Center. Mr. Conze mentioned that there is a dojo (ie. a martial arts training studio) two doors down from this space within Goodwives Shopping Center.

There were no questions or comments from notified property owners or the general public, and there were no further questions or comments from the Commission. Mr. Hutchison then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain and unanimously approved.

At about 8:15 P.M., Mr. Conze then read the next agenda item:

Continuation of Public Hearing Regarding Proposed: Amendments to the Darien Zoning Regulations (COZR #6-2011); Amendment of the Darien Zoning Map (COZM #1-2011); Site Plan Application #280; Special Permit Application #268; Land Filling & Regrading Application #265, Baywater 745 BPR, LLC, 745 Boston Post Road. Proposing to replace the existing building at 745 Boston Post Road with a new mixed use building and perform related site development activities. Zoning Regulation amendments are proposed to Sections 585, 614, 615

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and 616 to permit the development as proposed. Proposed amendment of the Zoning Map would make the entire property in the DB-1 Zone. The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. The subject property is on the northwest corner formed by the intersection of Academy Street and Boston Post Road, and is shown on Assessor's Map #16 as Lots #15 and #16 and is in the DB-1, and R-1/3 Zones and DBR overlay Zone. *HEARING OPENED ON 9/27/2011. DEADLINE TO CLOSE PUBLIC HEARING IS NOVEMBER 1, 2011, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Robert F. Maslan, Jr. was present on behalf of the property owners. Mr. Ginsberg explained some of the outstanding issues which had been discussed at the last public hearing on this matter. They include the following: the building's proposed relationship with adjacent buildings along the Post Road; snow plowing/snow storage on site; Architectural Review Board issues; and whether the proposed inclusionary, affordable unit will be constructed on site or off site, whether there will be a fee in lieu and whether the units will be owned or rented.

Mr. Ginsberg then read aloud the comments received from SWRPA and the State of Connecticut DEEP via e-mail.

Mr. Maslan then distributed a package of materials including an October 3, 2011 from DLTC Landscape Contractors about snow removal. He noted that it is the intent for Baywater 745 BPR to continue to own the properties on site, if they were to be rental units.

Mr. Ted Milone, P.E., of Redniss & Mead explained that they have proposed to improve the effectiveness of the proposed permeable pavers. The application provides for water quality improvements and they have upgraded the swale along the north side of the parking lot. Mr. Spain asked whether there is a maintenance requirement for the swale. Mr. Milone responded that it would be good to have a light vacuum truck sweep the permeable pavers.

Mr. Maslan explained that the Parking Analysis notes that the parking supply proposed would be adequate. Mr. Spain asked whether there is any analysis of the Academy Street parking now. Mr. Genovese responded that they are not relying on the Academy Street parking. He explained that the subject property is fairly close to the Darien train station. He is comfortable that the parking proposed is sufficient. He explained that this is a mixed use building, so one does not need the sum of all of the parking for both residential and commercial uses, as some of the residential tenants may not be home during the day when the office uses are being occupied. Mr. Genovese explained that the garage parking spaces will be reserved for residential tenants and that there will be no reserved parking space signage for the balance of the on-site parking. Mr. Genovese added that the building's parking across the street would be reserved for the ground floor office tenants. He noted that they have a perpetual easement for the parking spaces across the street.

Mr. Spain asked whether there are any plans to enhance the safety of pedestrians crossing the Boston Post Road to the parking. He noted that this is a point of concern. Mr. Genovese said that they can inquire of the State of Connecticut D.O.T. about the safety improvements. He explained that these spaces across the street have been used in the past. Mr. Spain asked whether there is a snow clearing plan for the lot across the street. Mr. Genovese said they would make sure those spaces were kept clear.

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Mr. Genovese mentioned that the Boston Post Road in this area is two lanes of traffic, and traffic is not moving as fast as other parts of the Boston Post Road in Darien which are four lanes wide. Mr. Maslan then referred to Tab 6 of the submitted application materials, which contains the deed with the perpetual easement for the parking across the street. He noted that they can put into the lease(s) that commercial tenants for the proposed building must park across the street.

Ms. Cameron noted that any handicapped employee within the building would have to park on site. Mr. Maslan confirmed that location and number of handicapped spaces are determined by the Building Official and the Building Code.

Attorney Maslan then reviewed the inclusionary zoning incentives. He said that the proposed affordable housing unit(s) will be rented with a deed restriction and monitoring by the property owner(s). One alternative would be to create the affordable housing units off site, or create the units and pay a fee in lieu for a fraction of the cost. He noted that the entire fee in lieu would be \$362,234.25, which would be in the form of a cash payment to the Town of Darien. He noted that that would be preferable for the applicant. Mr. Maslan noted that an off-site affordable housing unit would not need to be owned by the applicant.

He then referred to his September 27, 2011 letter responding to Commission staff comments. He noted that the proposed zoning regulation amendments are really in two categories. The first is to clarify the incentives for inclusionary zoning, and the second is adjustments made to make the project work, such as the proposed change to the set-back along Academy Street. Mr. Spain asked why that change to the Academy Street set-back couldn't just be an incentive. Mr. Maslan responded that just making it an incentive alone would not be sufficient for this project and thus they had to modify the regulations as well. Mr. Spain then read aloud part of Section 585 of the Darien Zoning Regulations. Mr. Maslan clarified it should be 25% of the bonus units. Mr. Genovese clarified by noting under the regulation change they could go in 7 units. Twelve percent of those would need to be affordable units which would equal 0.84 units. Mr. Rich Gunthel, who works with Mr. Genovese, explained that the bonus unit would be 25% affordable, resulting in 0.25, which when added to the 0.84 results in 1.09 affordable housing units to be provided (for fee in lieu paid). Mr. Hutchison summarized by noting that there are now three apartments on the subject property and the applicant is proposing a net of five new apartments with some of those being affordable units. Mr. Genovese clarified by noting that only two of the on-site apartments are legal apartments currently. Mr. Maslan said that the fee in lieu computation is based upon the proposal for eight dwelling units on site.

Mr. Ginsberg then read aloud notes from the Architectural Review Board, who had met earlier in the evening. Mr. Genovese responded to those comments by noting that his project should not be judged or compared to the two adjacent residential buildings to the west. Mr. Spain asked whether Mr. Genovese believed that 777 Boston Post Road building should set the standard for that entire block. Mr. Genovese responded that the setback is not problematic for that building. Mr. Spain noted that this entire block is not within the Central Business (CBD) Zone but rather the DB-1 Zone, which is a transitional zone. He added that he believed this building and this location is establishing a precedent.

Mr. Seelan Pather of Beinfield Architecture PC noted that the existing front yard distance is 20 feet from any building to the property line. Mr. Genovese clarified, and said that it is 7 feet from the property line, there is 7 feet from the sidewalk then the curb then to the pavement of Boston Post

Road. Mr. Maslan noted that they are not asking for a waiver of the front yard set-back. Mr. Hutchison asked whether model-block sidewalks could be constructed as they were across the street at Fairfield County Bank. Mr. Genovese said that they could include model-block sidewalks but noted that there are no street lamps in this part of the street.

Mr. Genovese said that in response to a neighbor concern, they will be replacing the fence to be eight feet high along the rear property line, and installing 10 to 15 foot arborvitae behind the garage to the north. The existing shed will be removed. He explained that the neighboring property owners to the north, the Milnes, would rather not have cupolas on the garage, so he has agreed to remove the cupolas on the garages. Mrs. Riccardo then asked Mr. Genovese to review the sight lines. Mr. Genovese then showed the vegetation to be removed north of the applicants' proposed driveway onto Academy Street. Some of that vegetation might be on Berard property to the north. He has spoken with the tenant who will work on removing and replacing the landscaping with lower level plantings after consulting with the landlord, the Berards. Mrs. Riccardo clarified that there will be no left turns out of the proposed driveway and asked whether it would be possible to limit left turns from Academy Street onto Boston Post Road. Mr. Maslan noted that such a change would need approval from the State of Connecticut Department of Transportation.

In response to a question from Mr. Conze, Mrs. Glassmeyer, one of the property owners, noted that the proposed building will be a creamy white color.

Mr. Glenn Hoffman, the property owner of 767 Boston Post Road, pointed out that the property he owns is two doors down to the west of this property, and noted that his ex-wife owns the property immediately to the west of this property. The two buildings together house a single business that he operates. He had concern about the exit door proposed for the west side of this building, and the concern that people would park in his parking lot to be closer to that door. Mr. Genovese responded by noting that that door on the west side of the proposed building would be an emergency exit only out of the stairway. It is a fire stairwell exit which will not have a door handle on the outside. He said that the elevator will not be serving the first floor office uses. He explained that there is a strong desire to have the proposed offices remain separate from the residential uses. It was also noted that there is a five foot grade difference between the proposed building and the parking lot owned by Mr. Hoffman and his ex-wife. Mr. Hoffman suggested the possibility of alarming that door. Mr. Genovese replied that alarming the door is certainly one possibility. Mr. Conze then suggested that Mr. Hoffman and Mr. Genovese work out the situation and let Planning & Zoning Department staff know the result.

There were no further comments or questions from the audience. In addition, no Commission members had further comments or questions. Mr. Hutchinson then made a motion to close the public hearing on this matter. That motion was seconded by Mrs. Cameron and unanimously approved.

At about 9:20 p.m., Mr. Conze read the first general meeting agenda item:

GENERAL MEETING

Amendment of Coastal Site Plan Review #248, Connor, 42 Contentment Island Road, R-1 Zone.

Request to install generator, underground propane tank, and drainage, all within a regulated area.

Mr. Conze noted that the Connor matter has been postponed to another night.

Discussion regarding Flair Fitness, 551 Boston Post Road.

Mr. Conze said that this matter has been postponed to another night.

Discussion, deliberation and possible decision on:

Business Site Plan #182-B/Special Permit, Darien Station Associates, LLC, Lanphier Day Spa, 20 West Avenue. Proposing renovation and alterations of the existing building and perform related site development activities to establish a day spa/ beauty salon/ retail sales business along with business and professional offices.

Mr. Ginsberg explained that a revised draft resolution was distributed to commission members right before the meeting. He noted some of the items which had been changed in the revised draft. Mr. Voigt said there are two handicap-accessible parking spaces shown near West Avenue. He explained that the consultant hired by the Commission to peer review the application, Michael Galante, Frederick P. Clark Associates, said in his report that having those two parking spaces, could have vehicles backing into the drive aisle near West Avenue creating a parking conflict, was a bad idea. The applicant traffic consultant, Mr. Ditman, said that those spaces could remain. Mr. Voigt believed it would be safer to have those two parking spaces eliminated rather than have them remain as handicap access. Mr. Ginsberg clarified that the Building Official will be the ultimate arbiter of the number and actual location of handicap-accessible spaces; however, the Commission has the right to determine where parking spaces exist on-site. Mr. Spain noted they might not need as many parking spaces as shown and that they are actually adding parking as part of this application. Mr. Spain said that they can expect that some handicap accessible spaces may be moved to the rear of the building, as that will become an entrance. This can be pointed out as part of the Building Official's review. It was noted that Mr. Galante didn't want any parking spaces in this location. It was agreed by Commission members to modify the resolution to eliminate these two parking spaces near West Avenue, and to have the Building Official determine the location and number of the handicap-accessible parking applicable for the new uses and tenants going into the building. Mrs. Cameron made a motion to adopt the resolution as amended this evening. That motion was seconded by Mr. Spain and unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 18, 2011**

Application Number: Business Site Plan #182-B/Special Permit
Darien Station Associates, LLC, Lanphier Day Spa, 20 West Avenue

Street Address: 20 West Avenue
Assessor's Map #17 Lot #115-#117

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

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Darien, CT 06820

Name and Address of Property Owner(s): Darien Station Associates, LLC
c/o Cambridge Hanover LP
107 Cherry Street
New Canaan, CT 06840

Activity Being Applied For: Proposing renovation and alterations of the existing building and perform related site development activities, and to establish a day spa/ beauty salon/ retail sales business along with business and professional offices.

Property Location: The subject property is located on the north side of West Avenue approximately 200 feet west of its intersection with Boston Post Road.

Zone: CBD (commercial) 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 18, 2011

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 28, 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. The proposal is for renovation and alterations of the existing building at 20 West Avenue, and to perform related site development activities, and to establish a day spa/ beauty salon/ retail sales business along with business and professional offices. The entire existing

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building, which is now vacant, contains 18,346 square feet+/. The day spa proposes to use 7,664+/- square feet, with the remaining 10,682 square feet being used for offices.

2. At the public hearing, it was noted that the prior bank use of the majority of the building and office space on the front right (east) side of the building had existed for approximately 25 years, but had been vacant for a year or more. A new office tenant will occupy the right front (West Avenue) side of the building and an additional office tenant will occupy the front left side of the building. The new office use on the left side of the building is replacing what had been part of the bank, and therefore that office use will require Special Permit approval from the Planning & Zoning Commission under Section 654d of the Darien Zoning Regulations. Lanphier Day Spa is currently located within the Goodwives Shopping Center and they are proposing to relocate it to the rear portion of the 20 West Avenue property.
3. The applicants propose a number of changes to the site plan. These include the following:
 - Removal of the drive-thru bank facility at the rear of the building. The drive-thru aisle will be changed to create 10 additional on-site parking spaces and a one-way traffic lane will be created.
 - Creation of a screened trash dumpster area and a small outside break area for employees on the southeast side of the building.
 - Approximately 450 square feet of additional, upper level space will be created. This upper level will be located on the ground level of the rear of the building, even though it will be on the second floor compared to the West Avenue side of the building. The upper level addition will be used by Lanphier as a small, retail sales area that will also serve as the entrance to their use which is on the ground floor.
 - Mechanical units will be installed on the roof and will be properly screened from view.
 - The electrical transformers that are now located on poles will need to be relocated and they will be placed on the front, left side of the building and will be properly landscaped so that they will not be noticeable.
 - The addition of a some stairs so that pedestrians will be able to safely move from this site down to the municipal parking lot which is at a lower level. Approximately half of the stairs are located on the subject property and the other half will be located on the Town property. The property owners/applicant will need to get Town approval to complete the stair installation. The Commission believes that this stair is an essential part of this project, and will assist in improving pedestrian access generally in the downtown district.
4. The Architectural Review Board (ARB) approved this application at its September 20, 2011 as part of application ARB #25-2011. That approval is hereby incorporated by reference.
5. At the public hearing, the applicant's attorney explained that any retail or personal service use (such as the day spa) would be allowed as a matter of right, and a proposed new office space on the front, left side of the building does require Special Permit approval from the Planning & Zoning Commission.
6. At the public hearing, the spa owner/operator confirmed that it is busiest on Friday, Saturday and Sunday. Planned hours of operation are generally from 8:00 A.M. until 6:00 P.M. with hours of 9:00 A.M. to 4:00 P.M. on Sunday. Most clients come by appointment.

TRAFFIC/PARKING

7. The 20 West Avenue property is subject to a joint Parking Agreement with the Town and therefore, the need for providing all of the parking spaces on this site has been waived. It was noted at the public hearing that that the proposed 7664+/- square foot day spa and 10,682+/- square feet of office space will be serviced by a parking area that has two access driveways from West Avenue, and one rear access driveway to the municipal parking lot that eventually allows motorists to travel out to Mansfield Avenue. As noted within the submitted Traffic Impact Report and on the submitted plans, there will be 83 total parking spaces within the site (nine at the front of the building, and 74 spaces along the side and rear of the building). The Town hired Michael Galante of Frederick P. Clark Associates for a peer review of the submitted Traffic Impact Report.
8. One item that Mr. Galante noted in his September 22, 2011 review letter was the investigation of the feasibility of improving sight lines from the westerly driveway on West Avenue. The applicant's traffic consultant noted that trimming back existing vegetation is necessary to improve the sight lines and low shrubs will be maintained for aesthetic purposes and so that they do not block visual sight lines of drivers.
9. It was noted that traffic for the proposed uses will not change the Level of Service. Spa traffic is spread out throughout the day and is heaviest on the weekends.
10. At the public hearing, there was a question regarding the handicapped parking spaces that are on-site and are being created. Mr. Ditman of Milone & MacBroom replied that the revised plan includes two more handicapped parking spots on the front, left side of the building and that these handicapped parking spaces are closest to West Avenue and will be seldom occupied, and therefore will infrequently create vehicles backing into the access driveway.

SPECIAL PERMIT AND SITE PLAN FINDINGS

11. As required by Section 1005a, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, as revised, the application is in harmony with the orderly development of the district in which it is located.
12. Per Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
13. The Commission finds that the elements of the Site Plan submitted as part of the Special Permit application accomplishes the objectives for Site Plan approval as specified in Subsection 1024.
14. Per Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

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15. Per Section 1005f, the Commission finds that the applicant has shown the adaptability of a portion of the 20 West Avenue building to the spa (personal service) use.
16. Per Section 1005g, the Commission finds that consideration has been given to the protection, preservation and/or enhancement of the natural environment.
17. Per Section 1005h, in order to allow the new office use within the front left portion of the business, the Commission must conclude that the proposed office use of the first floor is more appropriate than the usual retail use of the first floor within the CBD. Lanphier Day Spa is a personal service use, which is generally “by appointment”. The Commission notes that a portion of the subject property has been used as office use for several years, and that the subject property fronts on West Avenue, not on Boston Post Road. The Commission has considered the presence of off-street parking in direct proximity of the site, the character of surrounding uses, convenience of pedestrian access, and location within the CBD. The Commission hereby finds that retail/commercial sales and service use of such space is impractical, undesirable, and/or inconsistent with the standards under Section 1005h, thus the office use can be authorized.
18. The existing parking area is to be modified and there will be sufficient area for the piling of snow on the landscape areas around the parking area without negatively impacting the number and spaces or the safety of the parking area.
19. The location and size of the use and the nature and intensity of the proposed operation, as required to be modified herein, conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #182-B/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the following plans received in the Planning and Zoning Department, as required to be modified herein, entitled:
 - 20 West Avenue, by Essential Design +Build, dated 9.15.11, scale as noted
 - Proposed Site Plan, Drawing No. A-3
 - Tenant Plan, Drawing No. A-4
 - Proposed Roof Plan, Drawing No. A-6
 - Proposed Elevations, Drawing No. A-7
 - Proposed Elevation Heights, Drawing No. A-8.
- B. Due to the nature of the proposed uses (day spa and various office uses), the Commission hereby waives the loading space requirement under Section 909 of the Zoning Regulations.
- C. Based upon the nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.

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- D. Because of the proposed location of the day spa within the CBD zone in downtown Darien, and the nature of the proposed office use(s), the Commission does not limit the proposed hours of operation of any of the uses within the building. All sign(s) for the tenants of the building are subject to ARB review and action. It is recommended that the owner and/or tenants go before the ARB with a comprehensive sign plan for all the tenants.
- E. The Commission confirms that parking is sufficient. As part of this project, the applicant is increasing the amount of on-site parking. The number and specific location of the handicap-accessible parking spaces shall be determined by the Building Official. The Commission notes that traffic consultant Michael Galante recommended that the two handicap accessible parking spaces closest to West Avenue be removed, to avoid a possible conflict of vehicles backing into the drive aisle, with traffic entering from West Avenue. The Commission agrees with Mr. Galante and hereby requires that the two parking spaces near the driveway (which are shown on the plan as handicap-accessible spaces) shall be eliminated altogether. At certain times, vehicles pulling in or backing out of those spaces could impede traffic flow, and therefore, the Commission believes that by eliminating these two spaces, traffic safety is increased. The Commission hereby requires the elimination of those two parking spaces.
- F. The Commission notes that this is a shared parking lot, and no parking spaces shall be reserved for any one tenant.
- G. A new screened Dumpster area is shown on the submitted plans. The Dumpster area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The applicant is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors. Although the Dumpster area will be shared with the various office uses, the applicant or landlord shall be responsible for the upkeep and maintenance area. Any future request for a different Dumpster or outdoor trash area will require review and action by the Planning and Zoning Commission as a modification of this Site Plan/Special Permit.
- H. The applicant's traffic consultant noted that trimming back existing vegetation is necessary to improve the sight lines and low shrubs will be maintained so that they do not block visual sight lines of drivers. The trimming of that vegetation and continued maintenance of that vegetation at low heights is a condition of this approval. Additional low vegetation such as flowers, hedges or shrubs could be added between West Avenue and the front parking spaces to partially block the view of vehicles that are parked within the site, but these need to be maintained so that they do not block the sight lines of drivers exiting the site.
- I. Prior to the issuance of a Certificate of Occupancy for the uses within the building, all site improvements and changes shall be completed. These include, but are not limited to, the new parking spaces, appropriate MUTCD signage in the parking lot, trimming of existing vegetation to improve sight lines, the establishment of the new screened Dumpster area, and the new stairs between this site and the adjacent Town property.
- 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 the permit as it deems appropriate.

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- K. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Department of Public Works for a Street Opening Permit (for any improvements on Town property), and the Darien Fire Marshal. Approximately half of the new stairs to the adjacent Town parking lot are located on the subject property and the other half will be located on the Town property. The property owners/applicant will need to get approval from the Darien Board of Selectmen (the Town) to complete the stair installation. As noted in the ARB approval, the owner and/or applicant shall return to the ARB once signage and exterior lighting fixtures have been determined.
- L. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 18, 2012). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Approval of Minutes

September 27, 2011 Public Hearing/General Meeting

Mrs. Riccardo had comments on pages three and four of the minutes. She noted that they are relative to the DJFL application--the lights need to be off by 7:30p.m., at the absolute latest. Mr. Spain noted that he had also had some typographical comments on this set of minutes. Mrs. Cameron made a motion to approve the minutes as modified by Mr. Spain and Mrs. Riccardo. That motion was seconded by Mr. Spain, and approved by vote of six to zero.

October 4, 2011 Public Hearing/General Meeting

Mr. Spain had comments on the minutes. Mr. Hutchinson made a motion to approve the minutes as amended by Mr. Spain this evening. That motion was seconded by Mr. Spain and was approved by a vote of five to zero to one, with Mr. Conze abstaining as he was not at the October 4th meeting.

There being no other business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director