

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
May 25, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Voigt, Hutchison, Cameron, Riccardo

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79

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Chairman Conze called the meeting to order at 8:00 p.m.

**PUBLIC HEARING**

Chairman Conze read the first agenda item, which was postponed.

**Coastal Site Plan Review #214-A, Flood Damage Prevention Application #230-A, Melanie Branca, 8 Waverly Road.** Proposing to raze the existing residence and to construct a new single-family residence, and to perform related site development activities within regulated areas. The subject property is located on the west side of Waverly Road, approximately 200 feet north of its intersection with Baywater Drive, and is shown on Assessor's Map #55 as Lots #16 & 17 in the R-NBD Zone. *POSTPONED TO JUNE 22, 2010.*

Chairman Conze read the next agenda item, which was postponed.

**Coastal Site Plan Review #237-A, Flood Damage Prevention Application #263-A, Foster Kaali-Nagy, 70 Five Mile River Road.** Proposing to install an access walkway, dock, ramp and float, and perform related site activities within regulated areas. The subject property is on the north side of Five Mile River Road approximately 150 feet east of its intersection with Berry Lane, and is shown on Assessor's Map #66 as Lot #9, in the R-1/2 Zone. *POSTPONED TO JUNE 1, 2010.*

Chairman Conze read the following agenda item and noted that it was a continuation of a Public Hearing that had previously been started regarding this matter.

**Continuation of Public Hearing regarding Coastal Site Plan Review #251, Flood Damage Prevention Application #281, Land Filling & Regrading Application #238, Jon & Caroline Schoudel, 29 Plymouth Road.** Proposing to demolish the existing residence and construct a new single-family residence with associated filling and regrading, and perform related site development activities within regulated areas. The subject property is located on the east side of Plymouth Road approximately 325 feet north of its intersection with Shipway Road and is shown on Assessor's Map #57 as Lot #40, and is in the R-1 Zone. *PUBLIC HEARING OPENED ON 4/27/2010.*

Mr. Ginsberg noted that a revised plan had been submitted, and that the Environmental Protection Commission (EPC) had issued a report in the form of a draft resolution which would approve the application. The EPC is expected to act on the application at their meeting in June. He said that the

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revised plan shows more plantings adjacent to the pond and a revised drainage scheme to direct more water into a rain garden area on the side and rear of the property and less water being directed toward the street.

John Schoudel said that part of the intent of the revised plan was to capture water from the driveway so that it would not run into the street, and to direct that water to the rain garden in the rear of the site. He said that he has spoken with Nancy McLaughlin of Shipway Road regarding her concerns, and he believes that the revised plan adequately addresses her concerns.

Peter Finkbeiner, Professional Engineer, represented Mr. Schoudel and said that the Environmental Protection Commission has rightly noted that since the project is located near the coast, the greater concern is for the quality of the water runoff and how it is processed rather than the quantity of water and trying to retain it on site. He said that some of the hard surfaces are too low to get them into the proposed culvert units that will allow them to infiltrate into the ground. To deal with that situation, they have added a catch basin near the mouth of the driveway, and the piping system from that catch basin leads the water to a rain garden to be located on the rear portion of the property. Mr. Finkbeiner said that he too has spoken to Nancy McLaughlin and noted that her property is the lowest point in the neighborhood, and that she has a catch basin in her yard because it is so low. He said that apparently there is a broken pipe between her catch basin and the street, and that is part of the cause of her having so much flooding that did not drain properly. He said that her problem had nothing to do with the Schoudel property. Mr. Finkbeiner noted that the revised plan does address any concern about water being directed to the street, and it will not make any drainage condition in the street worse. He said that the revised plan also creates more surface water filtering rain garden area by directing the water away from the street.

Bill Kenny, Environmentalist and Landscape Architect, submitted photographs of the site and discussed the revised plans. He noted that this is an existing, developed property, and that there is a culvert from the tidal pond in the rear of the site to Long Island Sound. There are fringe wetlands around the tidal pond, and there is a steep slope from the lawn area down to the pond. He said that the proposed work will regrade the edge of the top of the embankment and create a curb-like situation at the top of that embankment. From that curb down to the edge of the water of the pond, they will create a more natural vegetated area that will have low maintenance plants area rather than lawn. He said that the installation of the rain garden facilities will delay some of the flow of water from the first flush of runoff so that it can be filtered and processed before it is discharged into the pond and the Sound. This will minimize thermal impacts from rainwater during the hot summer months.

Mr. Spain asked if there would be any drainage that is directed toward the neighbor to the north. Peter Finkbinder said that none of the rainwater on the lawn on the north side of the proposed house would be captured by the culvert units, but it would be directed into the pond at the rear of the property rather than being allowed to flow toward the neighbor to the north. He said that there is a swale clearly defined on the south side of the property that already exists. He said none of the neighbors will experience any more flooding or rainwater due to the proposed development.

There were no comments from the public regarding the application.

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The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

**Special Permit Application #260, Land Filling & Regrading Application #221-A, Robert & Katherine Lavin, 480 Middlesex Road.** Proposing to construct a new driveway, relocate a parking area, and install a tennis court, and to perform related site development activities. The subject property is located on the east side of Middlesex Road, approximately 350 feet south of its intersection with Saddle Ridge Road, and is shown on Assessor's Map #6 as Lot #158 in the R-2 Zone.

Dean Martin, Professional Engineer, represented Mr. Lavin and explained that the property is in the R-2 Zone and consists of 2.16 acres of land. This site slopes down from a high point on the east part of the property to a low point on the west part of the property that is adjacent to Middlesex Road. The driveway into the site is currently very steep, and one aspect of the proposal is to substantially regrade the driveway to make it safer and more compliant with the Zoning Regulations. As part of the driveway reconfiguration, they will need to replace the septic system. They also propose the installation of a tennis court, and eventually plan to replace the existing house with a new house.

Mr. Martin said that portions of the existing driveway have an 18% slope, and there is no flat area near the base of the driveway (adjacent to the street) as required by the Regulations to create a safe stopping area. A revised driveway has been designed to incorporate the flat area (no more than 2% slope for the first 30 feet adjacent to the street) and the rest of the driveway will not exceed a 10% slope. The opening of the driveway to the street will be relocated to the north because that portion of Middlesex Road is slightly higher. In order to create the new driveway, they will need to cut or excavate into the ground a depth of six or seven feet to create the 2% (relatively flat) grade area. Retaining walls will be needed on both sides of the new driveway. The maximum height of the retaining walls would be eight feet. Trees and/or a safety fence would be placed on top of the retaining wall.

Mr. Martin mentioned that a future project is the possible replacement of the house and creation of a new parking area adjacent to the front of the new house. He said that storm water infiltrators have been designed to accommodate the entire proposed development, including the new driveway, the new tennis court, new guest parking area, and new house. The septic system to be installed will be large enough to accommodate a six bedroom house because it is a living filter type of septic design.

In response to a question from Mr. Conze, Mr. Martin said that much of the water that flows through this property flows from the higher properties located to the east of the subject parcel. Mr. Lavin said that is why curtain drains will be installed to pick up some of that flow as it enters the property. Mr. Martin said that the proposed regrading will remove approximately 22 large trees and many smaller trees. At least 40 new trees will be planted around the tennis court to provide year round screening.

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Mrs. Cameron asked how the new septic system would handle a six bedroom house with heavy, concentrated flows. Mr. Martin said that the minimum standards of the Health Code require that the septic system be designed to handle at least 150 gallons of water per bedroom per day. Studies have found that the actual use is closer to 100 gallons per bedroom per day. He said that the septic system has been designed to meet or exceed all State requirements. He said that a clay layer in the ground will need to be removed to accommodate the new septic system, and that the area on top of the new septic system will be a flatter grade than the present slope that exists. Mr. Martin said that due to the proposed installation of storm water infiltrators, the runoff from the site will actually be reduced even though the amount of impervious surface is being increased. He said that there would be no storm water detention for the lower parts of the driveway, but that the storm water detention would be concentrated on the upper and middle portions of the site. He said that the order of installation would be the new driveway, then the tennis court and septic system replacement. He said that throughout the construction process they will install and maintain erosion control measures as noted in the plans. Mr. Martin also noted that when the excavation work has started, the Health Department will require additional tests of the soil conditions to verify that the data obtained is consistent with State Health Code requirements.

In response to a question, Mr. Martin and Mr. Lavin said that the tennis court will not have any lights. It was also noted that during the previous regrading of the site, the Public Works Department had experienced a number of problems with sediment and erosion impacting Middlesex Road. The DPW has recommended that a performance bond be retained by the Planning and Zoning Commission to make sure that such problems are less likely to occur in the future, and to assure that the Town would not have to pay for clean-up of any problems that do occur.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mrs. Riccardo, seconded by Mrs. Cameron and unanimously approved.

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

**Coastal Site Plan Review #255, Flood Damage Prevention Application #285, Hank & Johanna Hagey, 7 Tokeneke Trail.** Proposing to construct additions and alterations to the existing single-family residence including a screen porch and an at grade patio; install a swimming pool/spa; and to perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Trail approximately 600 feet south of its intersection with Old Farm Road and is shown on Assessor's Map #65 as Lot #38, and is in the R-1 Zone.

Steven Trinkaus, Professional Engineer, represented the applicants and explained that the property contains an existing home and yard, and they are proposing to construct additions to the house, make changes to the driveway, and construct a swimming pool. The east end of the property contains a tidal pond, and that during high tide conditions there is some pooling of water on portions of the subject and adjacent properties. The proposed swimming pool is located within the flood hazard area, and the pool and fill would occupy approximately 8,000 cubic feet of storage in the flood plain. This would result in an increase of flood height of 1.3 inches in the immediate area of the property. He said that the site is the lowest point in the neighborhood, so the change will not impact any of the adjacent properties. Mr. Trinkaus explained that providing detention of stormwater runoff is not a good idea because of the proximity of the site to the wetlands and Long

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Island Sound. It is, however, important to treat the quality of the water before it is discharged. He noted that there is a large established lawn area, and that the outlet pipes from the gutters extend approximately 10' from the house. Water then runs across approximately 75 feet of lawn before it enters any type of wetland or watercourse. Mr. Trinkaus said that the driveway will drain toward the wetland. To accommodate the proposed construction, they will need approximately 150 cubic yards of fill material.

Mr. Trinkaus said that in 1988, a new septic system was installed in the front of the house. In 2007, additional testing was performed. He said that the existing septic system is code compliant. It has an 18" wide trench measuring approximately 266 feet in length. The house is served by public water, so there is no on-site well. He is working with the Health Department to verify that the proposed changes will not require any modifications to the septic system.

Jeremy Ginsberg read aloud the comments from the Connecticut Department of Environmental Protection indicating that they had reviewed the plan with respect to the Coastal Area Management Policies and found no inconsistencies between the proposed work and the policies.

Mr. Trinkaus said that one of the concerns of the neighbors to the south has been expressed by their engineer, Todd Ritchie. He said that there will be no regrading that would direct any water toward the south and no increase in roof runoff. Mr. Trinkaus said they are asking for a waiver of the formal requirements of Section 880 of the Regulations with respect to storm water management.

Mr. Ginsberg noted that there have been discussions about additional work on the site that would be within the jurisdiction of the Environmental Protection Commission. The application to EPC has not occurred yet and that work would be subject to future applications to EPC and/or P& Z Commission.

Mary Moore of 9 Tokeneke Trail said that this portion of the Pound Gut is not tidal because it is north of Cross Road and there is a restriction gate or pipe in that vicinity. She said that this portion of Pound Gut does drain more slowly when there is a high tide, but there is no tidal influence into the pond. Mrs. Moore said that since she first moved to the property, she has noticed more flooding on her property and on the Hagey property. She asked that the Commission be careful not to allow any work that would make the storm water flooding any more significant. She said that installing a larger outlet pipe as per the plans would probably help.

Mr. Trinkaus reiterated that they were not doing any work near the south property line nor would they do any work to direct any water toward the south.

There being no further comments or questions, the following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

At about 9:00 p.m., Mr. Conze noted that he would change the order of the agenda to accommodate the public. He opened the General Meeting, and read the following agenda item which was about the Flood Mitigation Committee:

**Flood Mitigation Committee Recommendations.**

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Review of recommendations and possible endorsement of the Planning & Zoning Commission.

Commission members noted that they had received three pages of recommendations and some policy issues that had been brought forth by the Flood Mitigation Committee. Craig Flaherty, Chair of that Committee, said that all of the issues are important and worthwhile and therefore the Committee did not prioritize the recommendations. Mr. Conze said that in the 2½ years since the Flood Mitigation Committee was formed, he understands that they have had more detailed topographic maps created and have had Milone and MacBroom perform detailed studies of various watersheds within the community. He understands that the goal is to create a detailed master drainage plan with a computerized model so that potential impacts could be analyzed. Mr. Flaherty and Mr. Ginsberg said that the Committee is also working on a series of details for the sub-drainage areas that are critical and trying to get inverts for the drainage pipes and details about the size of each drainage pipe. This is all part of the work of creating a detailed database of existing facilities and then prioritizing the maintenance work that needs to be done.

First Selectman, David Campbell, said that the Town will continue to fund the study to get to the end point. He said that he understands that most of the existing storm drainage pipes in the community are properly sized and are in good working condition. He said that the Department of Public Works has been more active to do maintenance work that is necessary and proactive in cleaning out drainage systems before they become problems. Mr. Campbell said that the Town is committed to taking care of what needs to be done and for doing what we can accomplish. He said one of the issues has been whether or not there would be sufficient justification for the Town hiring an additional engineer to regularly review any newly proposed development plans from property owners with respect to their impact on the drainage system. Mrs. Cameron said that she believes that hiring another engineer would be crucial to the success of the storm drainage program. Mr. Flaherty said that funding is a concern and it will be necessary for his committee and the Planning & Zoning Commission to put pressure on the decision makers after they have established the priorities for implementing the plan.

At about 9:25 p.m., Mr. Conze concluded that portion of the meeting and reopened the public hearing portion of the meeting. He read the following agenda item:

**Land Filling & Regrading Application #241, David Saunders, 158 Long Neck Point Road.**

Proposing filling, regrading and construction of an associated retaining wall and to perform related site activities. The subject property is a vacant lot located on the southwest corner formed by the southernmost intersection of Long Neck Point Road and Pear Tree Point Road and is shown on Assessor's Map #61 as Lot #23-A, and is in the R-1 Zone.

John Martucci, Professional Engineer, represented the applicant as did Sidney Marshman, a landscape designer. The subject property is 1.5 acres in size and is located on the southwest corner of the intersection of Long Neck Point Road and Pear Tree Point Road. It generally has an 8 to 10% slope from the east down to the west. The plan is to regrade a portion of the property by cutting some of the higher areas and filling some of the lower areas to create flat, play areas. Mr. Martucci explained that he has designed the regrading to be approximately a balance between cut and fill. There will be a need to construct a retaining wall measuring approximately 4 feet in height to hold the proposed fill. There was some discussion regarding the proposed fill. There was some discussion regarding the proposed landscaping and it was noted that it is critical that the plantings

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not obstruct the visibility near the intersection of the street. The Regulations require that no plantings within 30 feet of the intersection exceed three feet high in order to maintain sight lines. Plans for the regarding, sediment erosion controls, stockpiling and eventual re-vegetation of the area were discussed.

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

Mr. Conze read the following agenda item:

**Land Filling & Regrading Application #242, Gregory & Donna Brown, 44 Andrews Drive.**

Proposing to add fill at the northerly end of the lawn area and construct an associated retaining wall, and to perform related site activities. The subject property is located on the east side of Andrews Drive, approximately 200 feet south of its northernmost intersection with Brushy Hill Road, and is shown on Assessor's Map #64 as Lot #103-2 in the R-1 Zone.

David Verespy explained that the applicant has very little flat portion of the property and they wish to create a low retaining wall that would be a maximum of four feet in height. Approximately 100 cubic yards of fill would be brought into the site, so that a flat fenced-in area can be created for the pet dogs. No portion of the regarding would be located within the conservation easement portion of the site. Mr. Verespy said that there is no septic system that would be impacted—the property is served by public water and sewer. He said that the regraded area would be revegetated using lawn.

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

There being no further items under the public hearing agenda, the general meeting was re-opened at 9:32 p.m.

**GENERAL MEETING**

Chairman Conze read the following agenda item:

**Amendment of Zoning Map #4-2008, Amendment of Zoning Regulations #8-2008, Site Plan Application #268, Special Permit Application #122-A, Land Filling & Regrading Application #219, Lot Line Revision, Allen O'Neill Homes, West Avenue, Allen O'Neill Drive.**

Request for extension of time to fulfill the conditions of approval.

Mr. Ginsberg explained that the Housing Authority has obtained the approval from the Planning & Zoning Commission and is now seeking approvals from the State and necessary funding to implement the project. He recommended that the Commission grant a two year extension for the Housing Authority to implement the project. The Commission members agreed. The following motion was made: That the Commission grant a two year extension of the existing permit, giving the Darien Housing Authority until May 25, 2012 to fulfill the conditions of approval as outlined

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within the Adopted Resolution. The motion was made by Mrs. Riccardo, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

**Proposed Chamber sign at 967 Boston Post Road and/or in front of the Darien Train Station, CBD Zone and on Heights Road, next to the side walk on the side opposite from the tree.**

Carol Wilder-Tamme explained that the Chamber of Commerce proposes to install a pedestrian oriented information sign in the area between the Dunkin' Donuts and the Darien Train Station. The plan has been reviewed by and supported by the Architectural Review Board. The sign will be maintained by the Chamber of Commerce. The exact location of the sign has yet to be determined because they are awaiting permission from the Connecticut Department of Transportation. The sign would be installed within DOT's right-of-way. In response to a question about whether the sign would distract motorists using Route 1, Mrs. Wilder-Tamme said that the wording is designed for pedestrians and the lettering would be too small for drivers. Commission members reviewed the plans. A similar sign might be installed on Heights Road in the Noroton Heights section. In that case, it would be located on the Town's street right-of-way or on an immediately adjacent private property (with that property owner's permission).

After further discussion, the following motion was made: That the Commission approve the installation of the two pedestrian oriented information signs to be installed and maintained by the Chamber of Commerce. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Discussion and deliberation only on any public hearings closed on May 25.**

Commission members indicated that they would send any comments to Mr. Ginsberg by e-mail. Hopefully action can be taken on some of these matters at the June 1st or June 15<sup>th</sup> meeting.

**Approval of Minutes**

*May 11, 2010 Executive Session/General Meeting*

Several typographical errors were discussed and corrections were agreed upon. The following motion was made: That the Commission approve the corrected minutes. The motion was made by Mrs. Riccardo, seconded by Mr. Spain and unanimously approved.

There being no further business, the meeting was adjourned at 9:40 P.M.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning