

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
June 1, 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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**PUBLIC HEARING**

**Business Site Plan #135-A/Special Permit, Old Round Hill Development, LLC, 934 Boston Post Road.** Proposing to raze a portion of the existing building, construct additions and alterations to the existing building, establish a restaurant within the Boston Post Road frontage of the building and a gelato/bakery in the Center Street frontage of the building with seasonal outdoor dining, and to perform related site development activities. The subject property is located on the east side of Boston Post Road at its intersection with Tokeneke Road and is shown on Assessor's Map #72 as Lot #1, and is in the CBD Zone.

Attorney Wilder Gleason represented the applicants and submitted a copy of the Deed and Tax Assessor's card regarding the property. He said that in the 1940's the property was used as a Gristede's Market and since then there have been various uses until the most recent use which has been Crystal Gardens Flower Store. Due to the location of the property and the proximity to the train station, he said that it is an excellent opportunity for redevelopment and to establish a bakery and restaurant on the ground floor. These are uses that are allowed in the Central Business District by Special Permit. The property has frontage on the Boston Post Road and on Center Street. The printing/copying shop currently occupies the first floor on the Center Street side of the building. The second floor of that portion of the building was previously occupied by the Board of Realtors. The Boston Post Road side of the building was occupied by Crystal Gardens, but is now vacant. Attorney Gleason said that the entire site is covered by building or pavement and is all impervious surface that does not allow rain water to soak into the ground. There is a sanitary sewer easement that goes through a portion of the property from the rear of adjacent buildings to Center Street. The building and rear parking area have been poorly maintained.

Attorney Gleason explained that the proposed redevelopment would involve renovating the front façade of the building adjacent to the Boston Post Road to keep the old character of the structure. The rear portion of the building near Center Street would be removed to the established rear building line. This will comply with the Town requirement for expansion of municipal parking area and thus will support a waiver of the requirement for on-street parking for this property. Attorney Gleason said that the adjacent property owners have no formal easement or access rights, but have been allowed over the years to access the backs of their Tokeneke Road buildings from the Center Street side through the subject property. He said that the owners of the subject property have filed notices with all of the adjacent property owners to extinguish any claims of access rights.

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They will, however, be providing a walkway so that people and material from Center Street can access the back of those neighboring buildings.

Ken DeLeo, one of the principals, explained that the walkway from Center Street to the rear of the Tokeneke Road buildings will be wide enough to accommodate pedestrian or small handcart access. He said that the clear space opening in the door at the back of #7 or #9 Tokeneke Road is 57 inches wide. The walkway from Center Street through the subject property to the rear of those buildings will be at least that wide. Mr. DeLeo said that all utilities will need to be redone within the subject building and new air conditioning will be installed in the existing building and in its proposed addition.

Attorney Gleason explained that the proposal is to tear down a portion of the building adjacent to Center Street so that, under Section 1057 of the Regulations, the requirement for on-sight parking will be waived. The land between the established rear building line and Center Street will be dedicated to the municipality for future municipal parking. This would qualify for the waiver of the need for on-site parking and on-site loading. The proposed construction activity will involve building a new addition that will be two stories in height. Each floor of the addition will contain approximately 900 square feet. They will be removing approximately 1,500 square feet of building. All HVAC equipment will be located on the roof of the existing or proposed building. He said that the Architectural Review Board has reviewed and approved the design of the new addition to the right or east of the existing building when viewed from Center Street. Applicants also propose to establish an outside dining area with a perimeter of planting. A 5 foot wide walkway would be located on the outside of the perimeter planting. Attorney Gleason said that they have reviewed the 5 foot walkway with the Fire Marshal and he finds it to be acceptable. This will allow access from Center Street to the back portion of the adjacent buildings. Part of the plan is to consolidate the 4 or 5 separate dumpsters that the adjacent property owners have improperly located on the subject property. One new trash enclosure room will be created as part of the addition to the building. That enclosure will be approximately 10' x 16' and will have dumpsters located on wheels so that when it is time for those dumpsters to be emptied, they can be wheeled out to the curb adjacent to Center Street. Attorney Gleason said that he will work out a cost sharing agreement so that all of the users of the consolidated dumpsters will share in the cost and maintenance of the facility. He said that this will benefit the subject property and the adjacent property owners and will eliminate the numerous, unsightly dumpsters. He said that deliveries for the restaurant will come through this 5 foot wide walkway via hand pushed carts.

Attorney Gleason said that right now you could squeeze 7 or 8 cars into the paved portion on the rear of the property, but the parking spaces would not comply with the Regulations. This area will in part be converted into an outdoor dining area that will be accessible to the patrons of the bakery and the restaurant. A series of light fixtures will be installed in the ground and shine upward to illuminate the landscaping on the perimeter. Attorney Gleason said that the Health Department has reviewed and approved the concept of the shared waste area and the Fire Marshal has reviewed and approved the concept of the waste area and the outside dining.

Attorney Gleason said that the proposed addition to the building will be two stories, but with the first floor containing the bakery and the second floor being offices. A storage basement will be located beneath the addition and an attic storage area will be located above the second floor. The

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attic will also provide access to the new HVAC equipment. The HVAC equipment will be concealed from view because of its location on the roof.

Attorney Gleason reviewed a colored map that highlighted the portions of the existing building to remain and the new building sections. In the discussion, it was noted that the new front door on Center Street would swing out to comply with Fire Safety Code requirements. It might need to be recessed to avoid intruding into the land to be donated to the Town. Attorney Gleason said that the whole building's basement area will be storage and utilities only. It will have a walk-in cooler and a walk-in freezer. Commission members noted that it would be necessary to check the swing direction of all doors to make sure that they comply with fire and safety code requirements. It was also noted that there is an elevator proposed in the building so that it will access the first floor and second floor. It would not access the basement area. Attorney Gleason said that power to the building will be provided from Center Street. Apparently, a telephone pole must be relocated and the new connection from the relocated pole to the proposed building will be underground. Attorney Gleason explained that the proposed restaurant would be an Italian style restaurant with up to 45 tables and up to 90 seats within the dining room. An additional 10 seats would be located at the bar. Maximum indoor customer occupancy would be limited to 100 persons. During warm, seasonal conditions, outside dining would be provided for 60 to 80 patrons. 15 to 20 tables with 4 chairs at each table would be provided. Mrs. Riccardo noted that the drawing only shows approximately 32 seats in the outside dining area. She questioned whether additional seats could be allowed to comply with codes. Attorney Gleason said the parking will not be a problem due to the adjacent public parking area and participation in the municipal parking program that allows waiver of the requirement for on-site parking. He said that at lunch time, which would be the busiest time for adjacent businesses, there are 207 public parking spaces in the vicinity and approximately 45% of those were available on a busy Thursday afternoon when applicant's submitted parking count was conducted.

Attorney Gleason said that the restaurant and bakery operation would have a maximum of 18 staff people at peak times. Approximately half would come by public transportation. He said that the operators have already secured 17 municipal parking passes and will continue to work with the Town to make sure that the employees can park at municipal parking areas. He noted that it would not be appropriate for the Commission to mandate where those employees park because conditions may be changed by the Parking Authority. He said that the landlord will work with the business operators to require that all employees park off-site to leave the nearby parking spaces for patrons. Attorney Gleason said that potential office tenants like the easy access to the train station for their employees. He said that a parking study has been conducted and submitted to show that there are sufficient available municipal parking spaces. He said that of the 207 parking spaces counted, 94 of those spaces were available at the busiest times in the afternoon. He said that many patrons of the restaurant will park in the Wachovia Bank parking spaces in the evening when the bank is closed. He submitted a map indicating where the utility pole will be relocated from one side of Center Street to the other. Mrs. Riccardo noted that the parking study was conducted before The Goose Restaurant reopened for lunch. That reopening occurred just recently. It would change the number of available parking spaces during the afternoon because that restaurant is likely to be popular.

Attorney Gleason said that the Sewer Commission met on June 1<sup>st</sup> and discussed the existing sanitary sewer easement, which is a 20 foot wide easement that goes through a portion of the property. He said that the Sewer Commission wants the private property owners to take over the

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responsibility for the maintenance of the sewer line within that easement. He said that the Sewer Commission determined that if the maintenance of that sewer line remains the responsibility of the Sewer Commission, then they, the Sewer Commission, would allow the outside dining area to be created on top of the sewer easement but the Sewer Commission, would not be responsible for replacing any of the improvements that might need to be removed if maintenance is required on the pipe. Attorney Gleason said that the sewer line in that area probably dates back to the 1940s and might be replaced by his clients as part of the redevelopment of the project so that later maintenance or repair work could be avoided. Attorney Gleason said that all stormwater runoff goes toward Center Street now because the entire site is impervious. The entire redevelopment plan would continue to have water drain toward Center Street and would be connected to a storm sewer in the street. He said he needs the Planning & Zoning Commission to mandate that the existing 4 inch pipe connected to the storm sewers in the street be upgraded to an 8 in. pipe. By the Commission requiring the upgrade, the Public Works Department would allow the upgrade of the pipe.

Todd Ritchie, of consulting engineers Stearns & Wheeler, confirmed that all of the stormwater drains over land toward Center Street and into the catch basin in the street. He confirmed that there is a 4 inch underground pipe that connects into the catch basin and the goal is to replace that with an 8 inch pipe that will minimize the clogging. He said that some pervious area will be created as roof area is removed and replaced with grass. He explained that a new storm drain system will be installed that will include some infiltration. A storm drain maintenance plan will be prepared and submitted. He said that in some areas the amount of runoff will be reduced by as much as 70%. He said that the Department of Public Works has reviewed the plans and has no objection to the proposed changes.

Attorney Gleason said that the applicant wants to move ahead with this project in a timely manner and would like to have the businesses in the space by Christmas. He said that in lieu of actually conveying the ownership of the land to the Town, they would prefer to grant a parking easement to the Town. Mr. Ginsberg said that the Regulations were amended to allow a perpetual easement for parking in lieu of fee title to the land. He noted that in a different case, ground water contamination of the parcel made it inappropriate for the Town to accept ownership of the land. In that case, an easement was created and conveyed to the Town. He said that in any case, the Commission must state its reason for whether it accepts an easement or the land ownership. He also noted that the Town Attorney has recommended that RTM approval be obtained before the land is actually obtained by the Town. Attorney Gleason said that the applicants would prefer to maintain ownership of the site and grant the Town an easement due to the need to properly maintain the space. He also said that he would ask the Planning & Zoning Commission to grant approval for the redevelopment plan with the understanding that the details of the sewer maintenance would still need to be worked out between himself and the neighboring property owners and the Sewer Commission.

Attorney Gleason said that the fumes and odors from the proposed restaurant and bakery would be controlled with filters located within the building and on the roof. Steven Semaya said that fans and hoods would be installed and it is customary to have the smoke and odors controlled so as not to create any impact on the neighbors. Attorney Gleason said that a water wash or equivalent type odor control would be appropriate. He referred to the Planning & Zoning Commission's recent

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approval of Chipotle that specifies the standards to be met and allows the applicant to use the best equipment available to achieve those goals.

Chris Bannella said that he owns the property on Tokeneke Road that contains the “Specs” eyeglasses store. He said that he is very excited about the proposed changes and reuse of the property. He said that it would be a great improvement for all of the surrounding uses and owners.

Jong Yang explained that he owns the property at 9 Tokeneke Road that contains a dry cleaning business. He said that now they are able to park in the area behind their building. They use that space for frequent pick-up and deliveries. He was concerned about the narrow pedestrian entrance way being created between Center Street and the back of his building. He said that he has large machines within his building that may need to be changed or serviced and the sidewalk needs to be large enough to get those machines out to the street. Ken DeLeo said that he has been a builder for 30 years and knows that equipment for dry cleaners is designed to be broken down and taken apart. In any event, the width of the walkway will be wider than the doorway on the rear of the dry cleaning business. Any equipment that can come out through the doorway would fit through the walkway.

There being no further comments, the following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Vickie Riccardo, seconded by Susan Cameron and unanimously approved.

Chairman Conze indicated that he will slightly rearrange the order of the agenda to discuss two minor matters before getting to the public hearing regarding the YMCA. At about 9:00 p.m., he read the following agenda item:

**Coastal Site Plan Review #254, Flood Damage Prevention Application #284, Javier & Barbara Kulesz, 19 Lighthouse Way.** Proposing to construct additions and alterations to the existing residence, and to perform related site development activities within regulated areas. The subject property is located on the west side of Lighthouse Way approximately 945 feet south of its intersection with Boston Post Road and is shown on Assessor’s Map #53 as Lot #33, and is in the R-1/2 Zone.

Attorney Amy Zabetakis represented the property owners and explained that several small additions will be constructed to the house. They have obtained approval from the Environmental Protection Commission. Under Coastal Area Management Regulations, they have applied to the Planning & Zoning Commission. The CAM report indicates that there will be no impacts to the coastal resources due to the proposed work. The original plans had included a large front porch. That part of the project has been dropped.

Attorney Zabetakis explained that the expected flood level is 13 ft. above sea level and that the existing house is at Elevation 13.2 feet above sea level. The Regulations require that the floor elevation be at least one ft. higher than the expected flood level, therefore they have had to obtain a variance from the Zoning Board of Appeals because although they are higher than the expected flood level, they are not at least one ft. above the expected flood level.

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Director of Planning, Jeremy Ginsberg, confirmed that the Environmental Protection Commission and Zoning Board of Appeals approvals had been obtained. He read aloud the comments from the Connecticut Department of Environmental Protection indicating that they concurred that there would be no impacts and that the proposed work was not inconsistent with the CAM criteria.

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

Chairman Conze read the following agenda item:

**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.

Mr. Kaali-Nagy explained that he is proposing to construct a new dock into the Five Mile River. The new dock would be accessed via a 10 foot wide piece of land that is located immediately adjacent to No. 59 Five Mile River Road. The owner of the dock would be the owner of the property at 70 Five Mile River Road, which is across the street and around the corner. Mr. Kaali-Nagy said that the Zoning Regulations require that the dock structure comply with the side yard setback requirements, but in this case, it was impossible because the only access to the water is a 10 foot wide strip of land. He has met with the neighboring property owners to discuss their concerns. He noted that the existing dock and the adjacent property is 69 or 70 feet away from the proposed dock.

Mr. Spain expressed concern about the proliferation of docks. He noted that it would be preferable to have one common dock that services numerous properties rather than each property owner having their own separate dock facility. He also asked questions regarding the two houses that Mr. Kaali-Nagy has recently constructed at 125 and 129 Five Mile River Road. Those two houses have no relevance to the proposed dock to be located adjacent to number 59 Five Mile River Road.

Jeremy Ginsberg noted that the plan had been referred to the Connecticut Department of Environmental Protection. He read aloud the response that indicates that the installation of the dock is consistent with coastal area management policies and conformed that the applicant has obtained a permit from the Connecticut Department of Environmental Protection. Mr. Ginsberg noted that approval from the Darien Environmental Protection Commission had been obtained in 2008 and a variance from the Zoning Board of Appeals had been obtained in March of 2010.

Commission members reviewed the plans that had been approved by the Connecticut Department of Environmental Protection. There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing regarding this application. The motion was made by Mrs. Riccardo, seconded by Mr. Spain and unanimously approved.

At about 9:15 p.m., Chairman Conze read the next agenda item:

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**Special Permit Application #66-L, Coastal Site Plan Review #234-A, Site Plan Application #259-A, Darien YMCA, 2420 Boston Post Road.** Proposal to a) reconstruct westerly portion of existing building which houses Holly Pond School; b) construct a youth gymnastics addition to the building; and c) renovate and enlarge the existing parking lot with new sidewalk, associated landscaping, and drainage; and perform related site development activities within a regulated area. The subject property is located on the south side of Boston Post Road, approximately 350 feet east of its intersection with Weed's Landing, and is shown on Assessor's Map #53 as Lot #60 in the R-1/2 Zone.

Director of Planning Jeremy Ginsberg summarized the most recent action by the Planning and Zoning Commission. In 2008, the YMCA had applied for a four-part development proposal. The first was to rebuild the nursery school, the second was to construct a gymnastics facility, the third was to build a lap pool, and the fourth was to renovate and expand the parking lot. The Planning and Zoning Commission approved all aspects of that application except the new gymnastics facility. That action was taken in September of 2008. The Environmental Protection Commission had approved the entire project in 2008. The EPC Permit is valid for five years. The YMCA has appealed the Planning and Zoning Commission's decision to deny the gymnastics facility. That appeal is currently pending, and discussions to resolve the matter have not resulted in a settlement. Mr. Ginsberg said that the current application involves three of the same four development aspects. He has referred the plans to the Connecticut Department of Environmental Protection. Their response of May 28, 2010 indicates that they found no inconsistencies between the proposed development and the Coastal Area Management policies. Mr. Ginsberg noted that there is a memo from the Environmental Protection Commission dated May 27, 2010. There are also several letters from neighbors that have been submitted to the office and distributed to the Commission members. Those letters included a petition.

Attorney Robert F. Maslan, Jr., represented the Darien Community YMCA and explained that the property consists of 7.22 acres of land on the south side of the Boston Post Road and immediately adjacent to Holly Pond. The YMCA is a Special Permit use within a Residential R-1 Zone. He noted that the YMCA has acquired an additional piece of land to the northeast of the site. That property was formerly owned by Mr. and Mrs. Atkinson, and is not part of the existing Special Permit, nor of the pending application. Mr. Maslan noted that the major change between the 2008 application and the current proposal is the deletion of the lap pool addition. That proposal has been deleted. He said that the YMCA has been working with the Darien Public School system and the Town Administration regarding the sharing of facilities. The school and Town are pursuing the possible construction of a municipal or public swimming pool, and therefore it is not in the YMCA's best interest to pursue the proposed lap pool.

Attorney Maslan noted that the YMCA and the Darien public schools share several functions and facilities, such as the swimming pool, the gymnastics facilities, summer camps and sports camps. He noted that the YMCA wants to move the gymnastics facility from its present location at Goodwives Shopping Center to the YMCA site. If that is approved, then the YMCA will make a commitment that the single family house on the former Atkinson property will remain as a single family home. He also noted that a detailed traffic study has been conducted and submitted to indicate that the on-site parking would be sufficient to accommodate the gymnastics facility.

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Patrick Morrissey, Executive Director of the YMCA, explained that he has been a resident of the Town for more than 15 years. He knows that the YMCA has been working as a partner with government in providing services, particularly the gymnastic facility, indoor pool, daycare, after-school programs and special needs programs. He submitted a letter of support from the Superintendent of Darien Schools regarding the proposal. He said that the YMCA has looked into various sites for the different projects, including the gymnastics program. He said that they have also conducted numerous dialogues with neighbors after they acquired the property at 2390 Boston Post Road and regarding the proposed application. There is also an ongoing offer from the YMCA to meet with the neighbors. He said that they work with the neighbors on numerous issues, including sidewalks from Weeds Landing to Seagate Road, having police present to direct traffic for special events, improve notification to members reminding them not to park on neighboring residential streets, having staff park at the church across the Boston Post Road during special events to make sure that on-site parking spaces are available for attendees, and relocation of the trash dumpsters to be located farther away from the neighbors. Mr. Morrissey said that there had been a number of changes in the past two years regarding the YMCA's operations. There has been a reduction of 81 children from the kindergarten program because the Town has gone to a full day kindergarten program, and there has been a reduction of 70 pre-school participants. He said that the establishment of personal training businesses within the community is another reason why adult membership in the YMCA has been reduced from 5,959 in 2008 to 5,699 at present. He said that the previous approvals by the Planning and Zoning Commission established a maximum cap of 7500 members. He also noted that if the Town does build a swimming pool, this will likely reduce usage of the YMCA's swimming pool, and possibly might reduce membership at the YMCA. Mr. Morrissey noted that one reason to expand the YMCA parking facilities is because if the members have an unpleasant experience, such as not being able to find an on-site parking space, they will leave and will no longer be members.

Mr. Morrissey said that in 2005, there was a concern by some neighbors that the creation of the fitness center and conversion of internal spaces such as the racquetball areas would substantially increase membership. This has not occurred. What it has done is to allowed the existing members to have better facilities and the number of members has remained relatively unchanged. Mr. Morrissey reviewed charts of the usage of the YMCA. The busiest time during the weekdays is generally between 8:30 a.m. and 9:30 a.m. when they would have approximately 250 persons on site. The maximum number of people allowed on the site for normal use is 350 people. Mr. Morrissey said that typically a Monday in January is historically the busiest time as people start to implement their New Year's resolutions. The charts show an orange color to represent the possible additional usage if the gymnastics program were moved from the Goodwives Shopping Center to the Boston Post Road facilities of the YMCA. The total usage might increase to something less than 300 people at any given time, but would still stay well below the 350 people allowed by the past approvals. He noted that most of the gymnastics participants are students who are frequently dropped off at the site after school. He said that during the summer programs, the attendance is different and generally less than during the school year. He noted that the gymnastics facility is designed as a training facility, not as a competition facility. There would be gymnastics meets and events, but it is not designed primarily as a competition facility. When the High School has a meet, there are generally 12-14 members on each team and it would be very rare to have more than two teams at the site. Typically a meet is one team competing against another. High School meets are generally conducted on weekday afternoons. In response to questions, Mr. Morrissey said that he

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thought the 350 limitation was imposed by the Planning and Zoning stipulation, and is not a maximum number of people that the Fire Code would allow.

Holt McChord, Professional Engineer, explained that the 7.22 acre site does not include the former Atkinson property. The existing parking area has approximately 196 parking spaces, and has a very limited drop-off area near the front door. Storm drainage from the parking lot is collected into a series of catch basins and pipes, and then is discharged on the southeast portion of the site via a level spreader and then is allowed to flow toward Holly Pond. He said that the building elevation is 18' above sea level and is not within a flood hazard area. A portion of the property adjacent to Holly Pond is within the flood hazard zone, but the building is above the expected flood level. The proposed renovation of the parking area would result in 221 parking spaces by realigning the landscape aisle between parking spaces and expanding the parking spaces mostly to the westerly side of the site. Better internal sidewalks would be created, and a much better drop-off area would be created near the front door. Proposed additions and alterations to the buildings and new playgrounds would be constructed. All this development has been designed using low-impact development techniques. Stormwater from the parking area, for example, would be directed into bioswales within the landscape islands. These bioswales would provide some filtration of the water and some detention of the water. Additional new stormwater detention would be built for the stormwater runoff from the parking lot. All these detention systems are designed to deal with the first flush (the first one inch) of rainwater. It is important that the systems are not designed to hold back the stormwater with respect to quantity, but rather are designed to deal with the quality of the runoff water. He noted that the 2,600 cubic feet of additional stormwater detention is required, and they have provided at least 3,100 cubic feet of detention. This is an over-design of the proposed system. Comparing this proposal to the one that was discussed in 2008, he noted that it is the same number of parking spaces (221), but that the trash dumpster has been relocated to the northeast part of the site (near the former Atkinson property that the YMCA has acquired) so that it is not as close to any of the YMCA neighbors.

In response to questions, Mr. McChord said that it is possible to construct a berm of one or two feet in height in the southeast portion of the property to deflect any possible surface water flow that might come from the YMCA property toward the neighbor on Seagate Road. This berm could direct the water in a southerly direction toward Holly Pond rather than allowing it to flow in an easterly direction toward the neighbor. He said that the berm could be designed to avoid the larger trees and therefore make it more likely that the trees would be able to remain healthy and in place.

Mr. McChord said that the sediment traps are designed in the catch basins and before the detention structures so that any silt and sediment that does get caught will be easily removed from the system. He said that the design calls for two-chambered basins. The first basin will be a sediment trap, and the second basin will be for discharge of the water. He also noted that the bioswales will act as filters to catch much of the silt and sediment. He noted that the maintenance plan includes cleaning the catch basins three times a year.

Matthew Popp, wetland scientist and landscape architect, reviewed the plans with respect to the plantings. He said that in the front area between the Boston Post Road and the parking lot, they will be in-filling the existing vegetation with more plants so that there will be additional screening provided. The islands within the parking lot will have a few large trees, but no large trees will be planted in the area that will be the raingardens or bioswales. Along the westerly property line there

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is dense evergreen screening, and along Holly Pond there are some native trees and shrubs that are proposed. He noted that in the southeast corner of the site, any proposed berm could be designed and installed around the existing trees. If any of those trees do eventually come down, they would be replaced using two new trees for every large old tree.

The architect, Chris McCagg, reviewed the architectural drawings of the front elevations of the building. He highlighted the proposed addition that would become the gymnastics facility and the day care center and noted the new drop off area. He said that the rear elevation would look exactly the same as what the Planning & Zoning Commission had approved in 2008 except that the lap pool had been deleted. He reviewed floor plans of the proposed addition. In response to questions, he said that light that would be emitted from the building toward the neighbors will be treated with tinted windows and shades to minimize any light spillage that might be bothersome to the neighbors. Mr. McCagg said that the mechanical equipment for the new school facilities will be placed on the roof and it will be screened from view. He said that the units have built-in baffles to minimize noise that might spread toward the neighbors.

Attorney Robert Maslan said that the removal of the existing, non-conforming buildings on the west portion of the property will reduce the non-conforming set back conditions. He said that the improved storm water drainage facilities will improve the discharge of runoff water toward Holly Pond on Long Island Sound. He noted that the dumpster would be relocated from the westerly portion of the property to the easterly portion of the property so that it will be farther away from the neighbors. He said that the former Atkinson property which has been purchased by the YMCA is not currently part of the YMCA site or part of the Special Permit. The former Atkinson property has not been merged in with the 7.22 acre YMCA site.

Pat Morrissey said that during the daytime hours when the nursery school is in session, the children in the nursery school will be able to use the gymnastics area for playtime. He also noted that bus parking in the afternoon has not been a problem because buses park in empty portions of the large parking lot. Mr. Morrissey also said that the former Atkinson property is currently used by one of the employees as housing. The only relevance of that to the pending application is that since the employee lives so close, they do not need to drive to the site and take up a parking space on the YMCA site. This reduces the amount of on-site parking.

In response to questions, Mr. Morrissey said that swim meets and gymnastic meets are not conducted at the same time due to the different seasons and because the YMCA carefully manages the schedule to avoid such potential conflicts. He said that swim meets are seldom conducted with more than two teams and the swim meets have more participants and spectators than the gymnastic meets. He said that swim meets are frequently scheduled for weekends when the facility is less utilized by members.

In response to questions, Mr. Morrissey said that the Y has never had to pull back on other events due to swim meets being too well attended or creating parking problems. He credits this in part due to the scheduling efforts of the YMCA staff.

Mr. Maslan noted that the phasing plan would involve building the new gymnastics facility first and then temporarily using it to accommodate the nursery school operations. At that time, the existing nursery school facilities will be demolished and the new nursery school will be built. Once

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the children can move into the new nursery school, then the gymnastics facility would become available to the gymnasts.

Don Fiftal, Superintendent of Darien Schools, said that in the afternoon the YMCA facilities at Goodwives Shopping Center is the location for the practice facilities of the High School gymnastics program. He said that there are no lockers available at that site and there are some protrusions toward the exercise map that could raise possible safety concerns. He said that the High School gymnastics program is very interested to see that the current application of the YMCA be approved so that a new gymnastics facility could be constructed. He said that there are no gymnastics training or meet facilities at the High School and the gymnastics team must always use off-site facilities.

Mr. Conze noted that there are quite a few people, who wish to speak regarding this matter, but the hour was getting late and the Commission still has other business that it must conclude. The Commission members agreed that it would be best if the public hearing regarding this matter was continued to a later date. Commission members all agreed to recess the current public hearing regarding the YMCA and to reconvene it at 8:00 P.M. in the Auditorium of the Darien Town Hall on Tuesday, June 15, 2010.

Chairman Conze opened the General Meeting portion of the Commission's meeting. He read the following agenda item:

**GENERAL MEETING**

*Discussion, deliberation, and possible decisions regarding the following closed items:*

**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. *PUBLIC HEARING CLOSED: 5/25/2010. DECISION DEADLINE: 7/29/2010.*

The following motion was made: That the Commission waive the process of reading each draft Resolution aloud because each member has had an opportunity to read the drafts prior to the meeting. The motion was made by Mr. Voigt, seconded by Mrs. Cameron and unanimously approved.

The Commission members discussed the draft Resolution regarding the Saunders' property on Long Neck Point Road. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations noted in the Resolution. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
June 1, 2010**

Application Number: Land Filling & Regrading Application #241

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Street Address: 158 Long Neck Point Road  
Assessor's Map #61 Lot #23-A

Name and Address of Applicant & Property Owner: David Saunders  
180 Pear Tree Point Road  
Darien, CT 06820

Name and Address of Applicant's Representative: Sidney Marshman  
20 Beverly Place  
Darien, CT 06820

Activity Being Applied For: Proposing filling, regrading and construction of an associated retaining wall and to perform related site activities.

Property Location: 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.

Zone: R-1

Date of Public Hearing: May 25, 2010

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

Publication of Hearing Notices  
Dates: May 13 & 20, 2010

Newspaper: Darien News-Review

Date of Action: June 1, 2010

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
June 10, 2010

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 plan, 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:

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1. The subject application is for filling, regrading and construction of an associated retaining wall and to perform related site activities. The 158 Long Neck Point Road property is now vacant, and slopes to the west. The applicant proposes to construct a level lawn area approximately 108' x 170' on the western part of the property, while keeping the property vacant. No new impervious surface is proposed as part of this application.
2. As described at the public hearing, the property owner will be installing landscaping as part of this project. This landscaping will consist of Norway Spruce along the south property line; a privet hedge near both Pear Tree Point Road and Long Neck Point Road, and a boxwood hedge near the street intersection. It was noted that per the Darien Zoning Regulations, plantings may only be a maximum of three feet high within thirty feet of the street intersection.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. 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 #241 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:
  - Site Plan prepared for David Saunders, 158 Long Neck Point Road, by LBM Engineering, LLC, scale 1"=20', dated April 15, 2010 and last revised 04/22/2010.
- B. No lighting of the property is shown on the plans, and none is approved herein.
- C. While the applicant's representative noted during the public hearing that landscaping will be installed as part of this application, no landscaping was shown on the submitted plans, and none is hereby required to be installed by the Commission. Any planting installed must comply fully with the Darien Zoning Regulations regarding height near street intersections.
- D. Because there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management. The applicant's engineer noted in his engineer's report that "...the finished proposal will slightly decrease the amount of runoff from the site to the property to the west."
- E. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plan referred to in Condition 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

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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.

- F. The property owner must make sure that at all times during the redevelopment of the site, the stormwater runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- 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.
- H. 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.
- I. 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 (June 1, 2011). 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 shall be filed in the Darien Land Records within 60 days of this action and prior to any filling or regrading work, or this approval shall become null and void.

Chairman 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. *PUBLIC HEARING CLOSED: 5/25/2010. DECISION DEADLINE: 7/29/2010.*

The Commission members discussed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to approve the Brown's filling project subject to the conditions and stipulations contained within the Resolution. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
June 1, 2010**

Application Number: Land Filling & Regrading Application #242

Street Address: 44 Andrews Drive  
Assessor's Map #64 Lot #103-2

Name and Address of  
Property Owner: Gregory & Donna Brown  
44 Andrews Drive  
Darien, CT 06820

Name and Address of Applicant &  
Applicant's Representative: David W. Verespy, ASLA  
Rock Spring Design Group, LLC  
15 Rock Spring Road  
Trumbull, CT 06611

Activity Being Applied For: Proposing to add fill at the northerly end of the lawn area and construct an associated retaining wall, and to perform related site activities.

Property Location: The subject property is located on the east side of Andrews Drive, approximately 200 feet south of its northernmost intersection with Brushy Hill Road.

Zone: R-1

Date of Public Hearing: May 25, 2010

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

Publication of Hearing Notices  
Dates: May 13 & 20, 2010 Newspaper: Darien News-Review

Date of Action: June 1, 2010 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: June 10, 2010 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

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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:

5. The subject application is to add fill at the northerly end of the lawn area and construct an associated retaining wall, and to perform related site activities. The retaining wall will have a fence on top of it. Approximately 100 cubic yards of fill will be used for this project.
6. It was noted at the public hearing that the proposed work will not affect existing drainage patterns and will not affect the flow of water off of the property. Because of this, no new drainage facilities or stormwater management is proposed as part of this application.
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 #242 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- J. Land filling, regrading work, and construction of an associated retaining wall shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - Brown Residence 44 Andrews Drive, by Greenwich Home + Garden, LLC, dated 4-15-2010, scale 1"=10', Sheet SP-1.0.
  - Brown Residence 44 Andrews Drive, by Greenwich Home + Garden, LLC, dated 4-15-2010, Sheet SP-2.0.
- K. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plans referred to in Condition 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.

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- L. The Commission hereby waives the requirement for stormwater management per Section 888 of the Darien Zoning Regulations, due to the scope, nature, and amount of work proposed as part of this application.
- M. The applicant must make sure that at all times during the redevelopment of the site, the stormwater runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- N. 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.
- O. 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.
- P. 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 (June 1, 2011). 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 shall be filed in the Darien Land Records within 60 days of this action and prior to any filling or regrading work, or this approval shall become null and void.

Chairman Conze read the following agenda item:

**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. *PUBLIC HEARING CLOSED: 5/25/2010. DECISION DEADLINE: 7/29/2010.*

Commission members discussed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to approve the Schoudel project subject to the conditions and stipulations contained within the Resolution. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
June 1, 2010**

Application Number: Coastal Site Plan Review #251

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Flood Damage Prevention Application #281  
Land Filling & Regrading Application #238

Street Address: 29 Plymouth Road  
Assessor's Map #57 Lot #40

Name and Address of Applicant &  
Applicant's Representative: Jon & Caroline Schoudel  
12 Pratt Island  
Darien, CT 06820

Name and Address of Property Owner: Sam McArthur  
29 Plymouth Road  
Darien, CT 06820

Activity Being Applied For: 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.

Property Location: The subject property is located on the east side of Plymouth Road approximately 325 feet north of its intersection with Shipway Road.

Zone: R-1

Date of Public Hearing: April 27, 2010 continued to May 25, 2010

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

Publication of Hearing Notices

Dates: April 15 & 22, 2010  
May 13 & 20, 2010

Newspaper: Darien News-Review

Date of Action: June 1, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

June 10, 2010

Newspaper: Darien News-Review

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, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- 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 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 served by public water and sewer. The proposed residence will be constructed with a first floor elevation of 14.0, which is at least one foot above the base flood elevation on this property.
2. The Darien Environmental Protection Commission (EPC) sent comments on this application via a draft resolution approving the project with conditions dated June 2, 2010.
3. The Connecticut Department of Environmental Protection (DEP) sent an e-mail dated April 27, 2010 indicating that they found no inconsistencies between the proposed plan and the coastal area management policies.
4. During the public hearing process, the plans were revised to incorporate plantings and a rain garden along the edge of the existing pond. The construction of these plantings and the rain garden are an integral part of this approval.
5. As part of this application, stormwater management has been proposed via cultec units in the front yard as well as a new catch basin near the mouth of the proposed driveway. This catch basin will pipe water to the rear of the property near the rain garden.
6. The Commission notes the need for the applicant to file a document regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities 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.
9. 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.
10. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.

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11. 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.
12. The proposed activity, as modified within this resolution, 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.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #251, Flood Damage Prevention Application #281 and Land Filling & Regrading Application #238 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of a replacement single-family residence, stormwater management, filling and regrading, and related activity shall be in accordance with the following plans:
  - “Site Development Plan” Caroline Schoudel prepared by Sound View Engineers & Lands Surveyors, LLC, dated March 15, 2010 and last revised April 27, 2010.
  - “Habitat & Water Quality Enhancement Planting Plan”, prepared for: Jon & Caroline Schoudel, by William Kenny Associates, LLC, dated April 30, 2010.
- B. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans listed in Condition A, above, 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.
- C. A Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 29 Plymouth Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities 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 by the owner, within the next 60 days and prior to the start of any filling or regrading work.
- D. During the construction, as soon as the foundation is in place and the first floor decking has been installed, the applicant shall submit an as-built survey to verify that the structure complies with the zoning regulations with respect to setback requirements and minimum floor elevation.
- E. Prior to the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer that all aspects of the construction, site regrading, re-vegetation of disturbed areas and utility installation have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.

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- F. A final “as-built” survey is hereby required to certify that the regrading, site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that all of the work, including installation of all aspects of the stormwater management, has been properly completed in accordance with the approved plans.
- 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.
- H. 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 approval of the Darien Public Works Department for the new driveway and the sewer disconnection and connection permit.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 1, 2011). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans 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. Both a Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by August 1, 2010 (within 60 days), or this approval shall be null and void.

**Any Other Business (Requires two-thirds vote of Commission)**     There was none.

There being no further business, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning