

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
April 27, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Voigt, Hutchison, Cameron

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

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**PUBLIC HEARING**

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. 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.

Mr. Ginsberg noted that the Environmental Protection Commission still needs to review and act upon this application so it will be necessary for the Planning & Zoning Commission to continue the Public Hearing. It would be worthwhile, however, for the Planning & Zoning Commission to hear the presentation and for the public to offer any comments regarding the proposal.

Jon Schoudel explained that the property contains an old split-level house. There is a tidal pond on the rear (eastern) portion of the property. He showed models of the existing site conditions and a proposed new house. A storm drainage system has been designed to include cultec units which will accommodate the first inch of rainfall. In order to install the cultec units, the average grade must be raised from 8.4 feet above sea level to 9.3 feet above sea level. The first floor of the new house will be at elevation 14, so that it is well above the expected flood level.

Curtis Streuli noted that the runoff water from the house will be directed into the cultec units, but the driveway runoff cannot be graded into the cultec units because of the driveway elevation. Mrs. Cameron asked if it was possible to use a surface rain garden type structure and lower the grade rather than having to raise the grade to accommodate the cultec units. Mr. Streuli said that they could design a swale into the ground, but it is not feasible to have a full rain garden on this property because it will fill with water too easily. He said that the expected flood level is 12 feet above sea level in a 100 year design storm.

Mr. Schoudel said that rain water gets into the existing basement and garage, but that the pond has not, to his knowledge, risen high enough to get into the house or garage. He said that the pond does go up and down depending on the tide conditions, because there is a connection from Long Island

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Sound to the other side of the pond. Mr. Schoudel said that the proposed new foundation will be fully compliant with the FEMA guidelines for work within the Flood Hazard Zone, and that all mechanical units will be located at or above the flood elevation.

Mr. Hutchison expressed concern that the proposed fill around the proposed house will take up what is now floodwater storage area. Mr. Streuli said that the top edge of the land around the pond is at approximately elevation 8.0. Water from the site does drain down toward the pond; however, the street elevation on the west side of the property is approximately 7.5. Therefore, some of the water from the site does drain toward the street rather than the pond. He said that the adjacent properties are comparable in grade elevation to the existing grade on the property.

Mr. Spain noted that the Commission has received a letter from a resident in the neighborhood who is next to a similar construction project that has been completed. The letter from the neighbor expresses concern that flooding on her property has increased, even during a modest rain storm, due to the construction on the nearby property. Mr. Spain and Mr. Hutchison both expressed concern that the regrading should not allow water to drain toward the neighbors and/or the street.

Mr. Ginsberg explained that the Noroton Bay District has special regulations indicating that approval from the homeowners' association is necessary, but this site is located in the R-1 Zone and is immediately adjacent to the Noroton Bay District, but is not in the Noroton Bay District. Mr. Spain said that he understood the proximity of the site, but noted that it is dependent on and is utilizing the storm drains in the private road which is controlled by the Noroton Bay homeowners association. Mr. Conze mentioned that drainage in the Noroton Bay area is problematic.

Mr. Ginsberg read aloud the comments from the Connecticut Department of Environmental Protection (DEP) indicating that they found no inconsistencies between the proposed plan and the coastal area management policies.

Nancy McLaughlin of Shipway Road explained that she had written and sent a letter to the Commission and appreciates the fact that the Commission is taking her concerns seriously. She said that her property is low, and surrounded by other sites that were slightly higher. She said that extensive flooding first occurred on her property in 2007 after construction took place on nearby properties and the grade of that adjacent property was raised. It was noted that the homeowners association is responsible for the maintenance of the storm drainage system in the street and it is the time of the year when the Association regularly checks and clears the drainage system to make sure that it is not obstructed. Mr. Hutchison noted that it might be necessary to install one way valves to prevent tide water from Long Island Sound from coming into the storm drainage system in the street or from entering into the pond on the Schoudel property. Mrs. McLaughlin said that if it is not necessary to raise the grade on the Schoudel property, then the Commission should not allow the grade to be raised. Mr. Schoudel said that Mrs. McLaughlin's property is more than 200 feet away from the subject property and is separated from the site by a street and other lots.

Commission members noted that the Environmental Protection Commission has not yet issued a report regarding this matter and thus it was agreed that a continuation would be appropriate. The following motion was made: That the Planning & Zoning Commission continue the public hearing regarding this matter at 8:00 P.M. on May 25, 2010. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

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At about 8:25 p.m., Chairman Conze read the following agenda item:

**Coastal Site Plan Review #253, Flood Damage Prevention Application #283, Land Filling & Regrading Application #239, James & Elizabeth Degnan, 19 Brush Island Road.** Proposing to demolish the existing residence and construct a new single-family residence, with associated septic system and stormwater management system and to perform related site development activities within regulated areas. The subject property is located on the north side of Brush Island Road approximately 1,500 feet west of its intersection with Nearwater Lane and is shown on Assessor's Map #56 as Lot #20, and is in the R-1 Zone.

Thomas Nelson of McChord Engineering Associates represented the applicant and explained that the re-development is proposed on a 2.16 acre parcel adjacent to Holly Pond. Much of the property is within the Flood Hazard Zone. The house on the property has been demolished and a new house is being proposed. The new house is farther back from Holly Pond and the wetlands than the old house. An on-site septic system must be installed because the sanitary sewer line does not extend into Brush Island Road. Mr. Nelson reviewed the plans for the installation of a storm water drainage system. He noted that some filling and regarding will be necessary to accommodate the new house and to make sure that it will be completely untouched by the expected flood waters. Approximately 40 cubic yards of fill is required in the area below Elevation 13 (the expected flood level on this area). A total of approximately 270 cubic yards of fill is necessary to accomplish the entire project. He said that the dam level of Holly Pond is Elevation 6. In response to questions, he said that most of the fill proposed will eliminate the driveway that once led to the basement level garage. The filling of this low driveway and former garage area will make sure that the entire house is outside of the flood hazard area.

Kate Throckmorton, Landscape Architect of Environmental Land Solutions, LLC, reviewed the Coastal Area Management Report that she had prepared and submitted. She noted that a number of large trees on the property have been and will be preserved throughout the construction process. The first floor of the house will be at Elevation 20.0, so that it will be well above the expected flood level. A rain garden is proposed on the site to make sure that the storm water runoff from the impervious surfaces is directed into the rain garden before it is allowed to spill into Holly Pond. She said that access to the entire property is limited, and the available area for a future pool is very limited, but a pool is not impossible.

In response to questions, Mr. Ginsberg said that the sanitary sewers are located in Nearwater Lane, but have not been extended into the private street known as Brush Island Road because of the substantial distance between the existing sewer line and the first house on Brush Island Road.

Mr. Spain asked about the existing grades at the perimeter of the proposed house. He was told that the fill is necessary to connect two high spots on either side of the old driveway that led to the basement level garage.

Mr. Ginsberg read aloud the comments from the Connecticut Department of Environmental Protection indicating that they found no inconsistencies between the proposal and the Coastal Area Management policies. He did note that the Darien Environmental Protection Commission (EPC)

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had approved the project. A copy of the resolution with respect to EPC Permit #4-2010 has been included in the file.

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

At about 8:40 p.m., Chairman Conze read the following agenda item:

**Land Filling & Regrading Application #240, Nicholas & Christa Struk, 32 Old Oak Road.** Proposing to fill and regrade a portion of the back yard, and to perform related site activities. The subject property is located on the west side of Old Oak Road approximately 650 feet north of its intersection with Leeuwarden Road and is shown on Assessor's Map #29 as Lot #131, and is in the R-1/2 Zone.

Bruce Eckerson, Landscape Architect of Wesley Stout Associates, explained that the existing house is located at the end of the cul-de-sac. The back yard area is very limited, and therefore they are proposing to do some filling and regrading to make more flat back yard available for the owners. The existing boulder line located adjacent to the tree line will be the demarcation of the proposed fill. The boulder wall will be increased in height, and the existing large trees will be left intact. They will only be removing some small, scraggly trees. The application also includes the installation of a storm drainage system that will include a series of cultec gallery units to be located underground. A series of weep holes will allow storm water on the surface to flow through the retaining wall. This water will then flow into a gravel strip at the base of the retaining wall so that it can be dispersed as sheet flow rather than collected into a single location. The overflow from the proposed cultec units has been incorporated into the design as recommended by the Town Public Works (engineering) Department.

Mr. Eckerson explained that the project involves the installation of approximately 55 cubic yards of fill. There will be no new impervious surfaces added, and a fence will be placed at the top of the retaining wall to keep balls and play equipment from falling downhill. He said that they will be submitting a maintenance plan so that the current and future owners of the property will know how to properly maintain the storm drainage system.

There were no comments from the public regarding the application. After reviewing the plans, the following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

The Public Hearing session was concluded. The Commission then moved into the General Meeting portion of the meeting. At about 8:45 p.m., Chairman Conze read the following agenda item:

**GENERAL MEETING**

**William Raveis, 22 Old King's Highway South, CBD Zone.**

Informal discussion regarding proposed additions and alterations to the existing building.

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Attorney Wilder Gleason explained that the owners of the property wish to reconfigure the parking area and add 600+/- square feet to the existing building, which is located adjacent to the municipal parking lot. There are ten (10) on-site parking spaces, and the access into the building is from the rear portion of the site. Many people use the adjacent Center Street South municipal parking area. The unusual shape of the parcel results in the unusual setback requirements. They propose to add to the building to create a more appropriate entrance area and conference room facilities for the real estate business, but they will not be able to add any new parking spaces. They will be seeking setback variances and parking variances from the Zoning Board of Appeals.

Loren Meyer, Project Architect, reviewed floor plans of the existing and proposed structure. He also reviewed elevation drawings, explaining that the building is old and needs to be renovated.

The Commission members discussed the proposal on an informal basis. No application has been submitted. Chairman Conze noted that upgrading the building is nice, but it is necessary to make it a logical entrance that also affords public access from the municipal parking lot through this site to Old King's Highway South. He suggested that the owners go through the regular application process. Mr. Gleason said that this project requires review and action from ARB, ZBA and the Planning and Zoning Commission.

Mr. Ginsberg noted that the applicant will need to remove some fencing and modify the landscaping in order to create a pedestrian walkway. The municipal model block sidewalk style is to be installed so that it goes through the site. Mr. Gleason mentioned that the sidewalk might go through a portion of the back-up aisle from several of the parking spaces. Mr. Meyer explained that the on-site lighting would be a combination of downtown-style street lamps and bollards.

The Commission took no action on the matter because there was no application pending.

At about 9:00 p.m., Chairman Conze read the next agenda item:

**Amendment of Special Permit #236/Site Plan, Melting Pot, 14 Grove Street, CBD Zone.**  
Request for outdoor dining within a portion of an existing public plaza.

Mr. Ginsberg reminded the Commission that the matter had been discussed at a previous meeting. Additional details have now been submitted, and revised locations for the seating have been illustrated on a plan to ensure that the proposed seating areas will not be adjacent to the building because such a location would obstruct access through the pedestrian walkway. Carol Layfield, part owner of The Melting Pot restaurant, said that they would be installing the four tables and sixteen chairs in the public plaza portion of the open space. No table area is allowed to be located under trees. Depending on the requirements of the State Liquor Control Commission, they might need to install a separation barrier between the patron outside dining area and the adjacent walkways. In such cases, they would use retractable theater-type cords or removable picket fence panels. In either case, those barriers would only be in place while The Melting Pot is serving alcoholic beverages in the outside location. Mr. Ginsberg noted that the proposed seating area is within the public portion of the plaza, and this will require approval from the Board of Selectmen as well as the Planning and Zoning Commission.

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Penny Glassmeyer confirmed that the public plaza space is located between the fountain and the trees on either side.

Mr. Spain said one of the central questions from the previous discussion is whether it is appropriate to have the public plaza become used for private, commercial purposes. He asked if the Town is willing to have such activity located on the recorded public easement area. If that is the case, then approval from the Planning and Zoning Commission, the Health Department and the Board of Selectmen will be necessary. They will also need approval from the State Liquor Control Commission.

Mr. Conze said that the Planning and Zoning Commission should approve the project and recommend to the Board of Selectmen that they approve the project as well.

In response to questions, Carol Layfield said that there is no need for more lighting in the plaza area. The intent is to use the outdoor dining space from 5:00 P.M. to 11:00 P.M. for The Melting Pot. They will share the space with Espresso Neat coffee shop so that during other hours it would be used routinely by the general public. During the daytime, Espresso Neat will not provide wait staff service to the outside tables, but instead, anyone can use the tables and chairs, and they will encourage people who purchase food and/or drink from within the Espresso Neat to come outside and use the tables and chairs. Mrs. Layfield said that the tables and chairs will be chained in place during the nighttime. During the winter the tables and chairs will be stored in the basement of the building. Mr. Spain said that it appears that the temporary use of the public plaza would actually be enhanced for the public due to the proposal because the tables and chairs provided by the applicant would be used by the public except during the prescribed hours of the restaurant's operations. The following motion was made: That the Commission approve the proposed 4 tables and 16 chairs in the public plaza with the understanding that all the permits and approvals must be obtained by the applicant. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

**Amendment of Land Filling & Regrading Application #145-B, Gene & Tracy Sykes, 5 Homewood Lane.** Request to amend prior approval.

The letter regarding the proposed changes and modifications was discussed. Basically, the grading and the drainage will remain unchanged, but will be modified slightly to accommodate the previously undiscovered location of the water main that travels through the property and the slight relocation of the building. The proposed structure will be slightly farther from the neighbors than the originally approved building. The Commission members discussed the requested changes. The following motion was made: That the Commission approve the requested modifications and changes to Land Filling & Regrading Application #145-B. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

*Discussion and deliberation on any public hearing items closed on April 27<sup>th</sup>.*

The Commission asked the staff to draft Resolutions for 19 Brush Island Road and 32 Old Oak Road. Those draft Resolutions will be discussed and acted on during the May 11<sup>th</sup> meeting.

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**Approval of Minutes**

*April 6, 2010 General Meeting*

Several minor typographical changes and corrections were discussed. The following motion was made: that the Commission adopt the corrected version of the April 6, 2010 minutes. The motion was made by Mr. Hutchison, seconded by Mr. Spain, and unanimously approved.

Mr. Ginsberg mentioned that the meeting of May 4<sup>th</sup> would be cancelled. He also noted that the Whole Foods Market is nearing completion and is scheduled to open in May.

There being no further business, the meeting was adjourned at 9:35 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning

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