

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
July 7, 2009**

Place: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Conze, Bigelow, Spain, Hutchison, Finke, Grimes

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat

---

**GENERAL MEETING**

Chairman Conze then read the following agenda item:

**Amendment of Special Permit #39-L/Site Plan, St. Luke's Episcopal Church, 1842-1864 Boston Post Road.** Relocation of existing food assistance program to existing garage/barn, and associated improvements to said garage/barn (replacement of doors, new client entry, new HVAC units, insulation).

Mr. Ginsberg explained that the proposal is to revise the food distribution facilities at St. Luke's church. They would be relocated into the garage/barn structure, which is approximately 200 feet away from the nearest neighbor. The upper level of the structure would be used for storage purposes only. The ground level floor would become a shelf and display area, where clients could pick out the foods that they would like. This will hopefully reduce wasted food and provide a more dignified atmosphere for the recipients. Attorney Wilder Gleason said that when food donations are made to the Church, they are sorted and any expired food is placed in the dumpster. He said that he had been unable to contact any of the neighboring property owners to see if they had concerns. He said that they are scheduled to appear before the Architectural Review Board (ARB) later this month.

Commission members believed that it would be appropriate to hold a public hearing on this matter. They asked the staff to have this put on the legal notice for a public hearing on July 28.

Chairman Conze then read the following agenda item:

**Business Site Plan #249-A/Special Permit, Land Filling & Grading Application #173-A, Whole Foods Market, Ledge Road.**  
Request for an extension of time.

Commission members reviewed the June 15, 2009 letter, requesting an extension of time. There were no changes to the site plan contemplated and it was noted that they have just recently started site work. Mr. Ginsberg said that they have worked out all the details with the neighboring property owner, the BMW dealership. Attorney Wilder Gleason represented Whole Foods market and said that they hope to move along quickly with the construction of the store. They are planning to open in the spring or early summer of 2010. They had obtained all permits and approvals from the

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 2.

Connecticut Department of Transportation. Mr. Spain suggested that the staff carefully review the resolution to make sure that there are no conflicting dates with respect to the extension. He saw no problem with the request for the extension for the completion of the project. The extension will allow the applicant until August of 2011 in order to complete the project.

The following motion was made: That the Commission grant the request of extension until August 10, 2011 in which to complete the project. The motion was made by Mr. Bigelow, seconded by Mr. Hutchison, and unanimously approved.

Chairman Conze then read the following agenda item:

**Modification of Special Permit Application #37-B(2)/Site Plan, Pear Tree Point School, 90 Pear Tree Point Road.** Request to modify existing Special Permit and Site Plan by replacing existing gymnasium building with a new gymnasium building in the same location.

Mr. Ginsberg noted that the revised architectural plans for the proposed replacement gym had been discussed and approved by the ARB on June 17, 2009. Commission member, Spain, said that the replacement gym is not a substantial change or difference from the existing use of facility, and he did not see the need for a public hearing regarding this matter. In the discussion it was noted that it is hoped that construction would start in June of 2010, just after the school year.

The following motion was made: That the Planning and Zoning Commission approve the Special Permit and site plan amendment to allow the construction of the replacement gym at Pear Tree Point School. It is understood that the construction will start in June of 2010 and be completed by June of 2011. The motion was made by Mr. Hutchison, seconded by Mrs. Grimes, and unanimously approved.

Chairman Conze then read the following agenda item:

**Amendment of Special Permit Application #79-D(2), Darien Nature Center, Brookside Road.** Request to construct a two-story addition to the south side of the existing building.

Commission members reviewed the June 9, 2009 letter regarding the proposed two level addition. Both areas will create storage. The lower level will be at the basement level of the building and the upper level of the addition will be at the first floor of the building. It was noted that the proposed addition is within the lease area from the Town of Darien, and the Board of Selectmen have given conceptual approval. The ARB has reviewed the architectural aspects of addition and has approved the proposed work.

Commission members discussed the project and found that it was not a major modification of the existing special permit use or activity. The following motion was made: That the Planning and Zoning Commission approve the requested modification of the Special Permit, to allow the two level storage addition to the existing Darien Nature Center building. The motion was made by Mr. Hutchison, seconded by Mr. Finke, and unanimously approved.

Chairman Conze then read the following agenda item:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 3.

**Modification of Business Site Plan #256/Special Permit, Athos Real Estate, 71 Boston Post Road.**

Request to modify previous approval to allow cooking, the installation of a hood and venting system, and a beer/wine license.

Mr. Ginsberg explained that the proposed restaurant will be different from the previously approved use that only involved brewing of coffee and serving of pastries. Commission members noted that venting of odors and fumes from the kitchen and the intensity questions would necessitate that before acting upon a request of this nature, they would require a public hearing. They suggested that they would be willing to conduct a public hearing on this matter in July, if the applicant can submit the appropriate information.

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

*Discussion and deliberation ONLY regarding:*

**Special Permit Application #255/Site Plan Application #270, Land Filling & Regrading Application #227, 333 West Avenue Associates, LLC, 329-333-339 West Avenue.** Proposing to merge five properties and construct eight single-family residences in a “Single-Family Open Space Development” with associated drainage, open space, and parking areas, and perform related site development activities.

Mrs. Grimes said that she is concerned about the drainage aspects of the project and noted that the groundwater had been measured and wondered whether it was measured accurately, due to the usually dry spring. She noted that the drainage report indicates that there will be no adverse drainage impacts to the neighbors. She noted if the Commission were to approve the project, they could require the use of porous asphalt to minimize the amount of storm water runoff. Mr. Ginsberg explained that a document could be filed in the Darien Land Records with that noted.

Mr. Bigelow said that he likes the overall concept of the project and believes that the town needs this scale of housing. He noted that this is a problematic property, and that the area is prone to flooding. He said that the drainage study acknowledges that this area is already prone to flooding and said that efforts to address the drainage problem on the part of the Town have been stalled and are not likely to be implemented in the foreseeable future. He said that water problems will still occur and might even be worse, unless everything designed on the site works just right.

Mr. Hutchison said that the location where the flooding currently happens will be revised and the storm water in that area will be subject to a controlled release. Mr. Bigelow noted that there is no margin for error in the design. Mr. Finke noted that if there are continuing problems with drainage, it will be a real problem for the neighborhood. He suggested that there could be some kind of monitoring procedure and required modifications of drainage aspects of the project if they need to be modified or improved. Mr. Hutchison said that if the drainage system does not work, it will be the developer or homeowner’s association responsibility to correct it. Mr. Bigelow said that the Commission needs to make sure that the existing and proposed residences are protected from flooding problems. Mr. Conze noted that the peer review, conducted by the Town’s drainage consultant, indicated that the plan is a good design and Mr. Conze suggested that the Commission could include a condition that any problems be rectified if they do arise. Mr. Hutchison said that that requiring certifications and as built drawings of the drainage system will be critical.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 4.

Mr. Spain said that the two main issues seem to be: design, style, and intensity; and the proper management of storm water drainage. He said that this project should not wait for the town to correct the existing drainage problem in the nearby neighborhood. He said he is comfortable with the engineering design and noted that in small storms, no water will leave the site, because it will be retained within the property. He said that the town's independent engineer has concurred with the applicant's engineer. He agreed that the other Commission members that monitoring will be necessary, once the new drainage system is installed and that the construction will need to be carefully performed to avoid overflowing any water on to neighboring land. The Commission also needs to make sure that they will avoid retaining water on the site that would create a swamp-like situation. He said that this system is designed to drain completely and it needs to be properly installed so that it will do so. The other issue is the design, style and intensity of the whole project. He said that the setup should be like other nearby private streets, and there should be no special pillars and no unusual signs to indicate the private development. Using just the regular street sign would be appropriate. He said the benefit of having a coordinated community of houses is that the drainage system is designed and coordinated for the entire site rather than on an individual house and lot basis.

Mr. Hutchison said that the plans indicate that there will be no basements and that specification needs to be incorporated into any condition of approval. He said that it is good that there is a coordinated drainage design because it will reduce the peak flow of storm water runoff in all instances. He said that conforming to the character of the neighborhood is very important and the applicant has achieved that goal. He said that he is comfortable with the overall project design and with the drainage design.

Mr. Finke said that the landscaping design needs to be implemented properly; he said that there should be no big pillars, no fancy plaques at the entrance. The pillars should be deleted.

Mr. Conze said that the house designs provide less floor area and less height than is theoretically possible on separate building lots. He said the regulation by the Commission actually results in less development than could otherwise be developed on separate lots. He said the association of private homeowners would take care of the common grounds and common drainage system. The flexible house design will allow for two or three bedrooms per house, and this development will properly manage the runoff that is currently not managed.

Staff will draft a resolution for action at a future date.

Chairman Conze then read the following agenda item:

*Discussion, deliberation, and possible decisions regarding:*

**Site Plan Application #251-A, Special Permit Application #246-A, Land Filling & Regrading Application #184-A, Lot Line Adjustment #609-A, Hoyt Street Partners, LLC, 277, 285, 289, 293 Hoyt Street; 6, 12, 48 Wakemore Street.** Proposing to relocate proposed clubhouse/recreation center, to fill and regrade in association with the realignment of a private road (Wakemore Street), and to construct a new driveway off of Wakemore Street, make lot line adjustments, and perform related site development activities.

Mrs. Grimes indicated that she will rescue herself from discussion or voting on this matter. She then left the meeting room. The following motion was made: That the Commission waive the process of

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 5.

reading the draft resolution aloud. The motion was made by Mr. Bigelow, seconded by Mr. Finke and unanimously approved.

Mr. Spain said that he recalls that there is a bus stop on Hoyt Street and suggested that perhaps there should be a walkway or sidewalk to provide safe pedestrian access from the project driveway, as it enters Wakemore Street, down to the bus stop. Mr. Bigelow said that providing a sidewalk in that area would partially be subject to the Department of Transportation approval. Mr. Spain suggested that the Commission should recommend that the sidewalk be provided and that the applicant use its best efforts to get that sidewalk approved by the Department of Transportation and installed at the applicant's expense. Mr. Hutchison said that the applicant should also use their best efforts to formalize the Wakemore Street homeowners association.

The draft resolution was modified accordingly. The following motion was made: That the Commission adopt the following revised resolution to approve the modification of the project. The motion was made by Mr. Finke, seconded by Mr. Bigelow and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
JULY 7, 2009**

Application Number: Site Plan Application #251-A, Special Permit Application #246-A,  
Land Filling & Regrading Application #184-A, Lot Line Adjustment #609-A  
Hoyt Street Partners, LLC, Hoyt Street and Wakemore Street

Site Location Street Address: Hoyt Street and 6, 12 and 48 Wakemore Street  
Assessor's Map #8 as Lots #204, #206, #207, #210-211, #212-213, #214-215, #228 & #229

Name and Address of Property Owners: Estate of Carolina Procaccini (Lots 204/206/228/229)  
c/o People's Bank  
350 Bedford Street  
Stamford, CT

Angelo Jack Procaccini (Lot 207)  
285 Hoyt Street  
Darien, CT 06820

Pasquale and Suzanne Darinzo  
12 Wakemore Street  
Darien, CT 06820

Toni Breden  
6 Wakemore Street  
Darien, CT 06820

LTB Properties, LLC  
277 Hoyt Street  
Darien, CT 06820

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 6.

Mailing address: 42 Greenwood Avenue, Darien, CT

Name and Address of Applicant: Hoyt Street Partners, LLC  
D. Bruce Hill, Esq.  
Law Office of Bruce Hill, Esq.  
23 Old King's Highway South  
PO Box 1103  
Darien, CT 06820

Name and Address of  
and Applicant's Representative: Law Office of Bruce Hill, Esq.  
23 Old King's Highway South  
PO Box 1103  
Darien, CT 06820

Activity Being Applied For: Proposing to amend the previously approved permits so that the access driveway into the 62 dwelling unit residential development known as Cedar Lane will not be to/from Hoyt Street as originally designed and approved, but shall now be to/from Wakemore Street which must be reconfigured and regraded to accommodate the new drive into the project.

Property Location: The subject properties are generally located on the east side of Hoyt Street, and on the north side of Wakemore Street.

Zone: R-1, R-2, R-1/5 and R-1/3 Zones with the DCR overlay zone

Date of Public Hearing: *PUBLIC HEARING OPENED ON May 26, 2009 and was continued and concluded on June 9, 2009*

Time and Place: 8:00 P.M. Auditorium (May 26) and Room 206 (June 9, 2009) Darien Town Hall

Publication of Hearing Notices  
Dates: May 14 & May 21, 2009

Newspaper: Darien News-Review

Date of Action: July 7, 2009

Action:

**Site Plan Application #251-A, Special Permit Application #246-A, Land Filling & Regrading Application #184-A, Lot Line Adjustment #609-A:** to amend the previously approved permits so that the access driveway into the 62 dwelling unit residential development known as Cedar Lane will not be to/from Hoyt Street as originally designed and approved, but shall now be to/from Wakemore Street which must be reconfigured and regraded to accommodate the new drive serving the project and to perform the related work for the associated infrastructure, and perform related site development activities: **APPROVED WITH CONDITIONS.**

Scheduled Date of Publication of Action:  
July 16, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 7.

- the proposed use and activities must comply with all provisions of Sections 850, 1000, and 1020 of the Darien Zoning Regulations for the Commission to approve the site development aspects of this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant, whose testimony is contained in the record of the public hearing, and all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applications are to fill and regrade within the main site to reorient the access driveway so that it will be to/from Wakemore Street instead of the originally approved design to/from Hoyt street. The Connecticut Department of Transportation (DOT) has not found the original design acceptable because of its proximity to the railroad track crossing of Hoyt Street. To accommodate the new driveway location to/from Wakemore Street, the western portion of Wakemore Street (from its intersection with Hoyt Street for distance of approximately 225 feet) is to be regraded and realigned. This work will reduce the current grade from approximately 12% to 5% at the intersection with Hoyt Street, and the realignment will improve sight line visibility for motorists exiting Wakemore Street onto Hoyt Street. Associated infrastructure, particularly storm drainage improvements, will be incorporated, and the applicant shall perform related site development activities. Wakemore Street is now, and shall remain, a private street. A private driveway is proposed to be constructed from Wakemore Street to serve as the principal access to and from the project.
2. In his referral comments, Fire Marshal, Robert Buch discussed a fire hydrant at the new entrance driveway location as well as hydrants throughout the project, providing adequate turning radius for the emergency entrance/exit at the far (east) end of Wakemore Street, maintenance of the emergency access/ exit, and turnarounds within the project.
3. The proposal involves the removal of a house and accessory structures from the property on the northwest corner of the intersection of Hoyt Street and Wakemore Street. The applicant has made private arrangements for the conveyance of the property and acquiring slope rights on adjacent land, and has dealt with the owners of Wakemore Street and Hoyt Street. No use of municipal condemnation authority nor municipal money is needed or involved.
4. The proposal to modify Wakemore Street, as discussed at the May 26, 2009 hearing, involved reducing the peak of the road by 18 inches. The design was revised, and at the June 9<sup>th</sup> hearing it was noted that the high point in the street would be reduced an additional 18 inches, for a total of 36 inches, thus allowing the slope at the intersection of Hoyt Street and Wakemore Street to be reduced to 5%. This is a substantial improvement compared to the existing grade at the intersection, which is close to 12%. Although a 5% slope at a street intersection does not

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 8.

comply with the Subdivision requirements for a new street, the revised plan will substantially improve the safety of the intersection of two **existing** streets. The need for additional "STOP" signs was discussed. A new STOP sign is likely to be needed for traffic headed westbound on Wakemore Street as drivers come over the crest and approach the new driveway. Another STOP sign will be needed for traffic that is exiting the new driveway onto Wakemore Street. In this way, drivers traveling eastbound on Wakemore Street from Hoyt Street will be going uphill and will not need to lose their momentum as they decide whether to proceed straight on Wakemore and go over the crest in the road or to turn left into the new private driveway for the Cedar Lane project.

5. The originally approved plans (Sheet SP-01A), show a break-away gate at an emergency access driveway near the east end of Wakemore Street, approximately 1000 feet east of Hoyt Street. This will allow for an emergency access/egress to the project through Lots #228 and 229 out onto Wakemore Street. As described in the previous application materials, a permanent easement will be established across Lots #228 and 229. At the public hearings regarding this proposed amendment to the main access driveway, there was discussion about the fact that both the primary and emergency accesses would be to/from the same dead end street. If an accident or other problem caused the intersection of Hoyt Street and Wakemore Street to be obstructed, then there would be no access to or egress from the Cedar Lane project because there would be no way into or out of Wakemore Street. The applicant has agreed to make its best efforts to work with the DOT to seek permission to have an additional emergency driveway to/from the site with a direct connection to Hoyt Street. This tertiary drive would only be needed or used if the previously approved emergency drive is not accessible.
6. At the public hearings, neighbors noted that there are no sidewalks on Wakemore Street or on this portion of Hoyt Street, that there is a bus stop on Hoyt Street in the vicinity of Wakemore Street, that trees, shrubs and a fence within the State right of way for Hoyt Street will need to be removed in order to improve the sight line south of Wakemore Street, and that motorists proceeding east on Wakemore Street and coming over the crest or peak of Wakemore Street will not easily see traffic moving into or out of the proposed new driveway to the 62 unit development on the north side of Wakemore Street.
7. 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.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
10. The elements of the Site Plan, submitted as part of the application, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 9.

11. The elements of the Site Plan, submitted as part of the application, AS REQUIRED TO BE MODIFIED HEREIN, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that *Site Plan Application #251-A, Special Permit Application #246-A, Land Filling & Regrading Application #184-A, Lot Line Adjustment #609-A* to amend the previously approved permits so that the access driveway into the 62 dwelling unit residential development known as Cedar Lane will not be to/from Hoyt Street as originally designed and approved, but shall now be to/from Wakemore Street which must be reconfigured and regraded to accommodate the new drive serving the project and to perform the related work for the associated infrastructure, and perform related site development activities are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

A. All design and construction drawings and plans must be revised and coordinated to incorporate the 36 inch reduction of the crest or peak of Wakemore Street as discussed at the June 9, 2009 hearing. The plans include:

- *Hoyt Street Partners, LLC, Landscaping and Lighting Plan, by Stearns & Wheler, LLC, dated 2/2009.*
- *Hoyt Street Partners, LLC, Erosion & Sediment Control Plan, by Stearns & Wheler, LLC, dated 2/2009 and 3/31/09, Sheet ES-01 and ES-02.*
- *Hoyt Street Partners, LLC, Site Plan, by Stearns & Wheler, LLC, dated 5/09, Sheet SP-01.*
- *Hoyt Street Partners, LLC, Site Plan, by Stearns & Wheler, LLC, dated 2/2009 and 3/31/09, Sheet SP-02.*
- *Hoyt Street Partners, LLC, Grading and Drainage Plan, by Stearns & Wheler, LLC, dated 2/2009 and 3/31/09, Sheet GP-01.*
- *Hoyt Street Partners, LLC, Grading and Drainage Plan, by Stearns & Wheler, LLC, dated 2/2009 and 5/09, Sheet GP-02.*
- *Hoyt Street Partners, LLC, Site Plan-Realigned Wakemore, by Stearns & Wheler, LLC, dated 2/2009 and 3/31/09, Sheet W-1.*
- *Hoyt Street Partners, LLC, Site Plan-Realigned Wakemore, by Stearns & Wheler, LLC, dated 2/2009 and 3/31/09, Sheet W-1.*

All drawings and plans must be revised to be coordinated and consistent with each other and this approval. The Commission acknowledges that the submitted landscape plans have notes on them stating that they are conceptual and subject to change. Specifically, stormwater management plans will be subject to review and action by the Planning & Zoning Director.

B. A new STOP sign is required for traffic headed westbound on Wakemore Street as drivers come over the crest and approach the new driveway. Another STOP sign is required for traffic that is exiting the new driveway onto Wakemore Street. In this way, drivers traveling eastbound on Wakemore Street from Hoyt Street will be going uphill and will not need to lose their momentum as they decide whether to proceed straight on Wakemore and go over the crest in the road or to turn left into the new private driveway for the Cedar Lane project. The Darien Police Commission may waive the need for the installation of these STOP signs. If the Darien Police Commission requires additional STOP signs or other traffic safety or warning signs, then they shall be installed by the applicant at the applicant's expense.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 10.

- C. A detailed construction phasing plan must now be devised to reflect the complicated process of regrading and realigning Wakemore Street which will keep the access into this dead end street open at all times for residents and emergency equipment. This plan shall be submitted to the Planning and Zoning Department for review and action by the Planning and Zoning Director prior to the issuance of any disturbance of the street. This will ensure the safety of residents during the construction process and also during the later construction phase of the main project.
- D. Pursuant to the listed requirements issued by Fire Marshal, Robert Buch those safety improvements to the site and clarifications of the maintenance will be detailed on the revised plans. The Commission requires the installation of the fire hydrant near the new entrance driveway to/from Wakemore Street and the clarification of the year round accessibility and maintenance of the emergency driveway previously approved at the east end of Wakemore. The Commission strongly advises the applicant to work with the Fire Marshal to resolve the other matters regarding fire hydrants and the turn around areas within the rest of the site and the turn around at the east end of Wakemore Street. The installation of fire hydrants will not require further action by the Commission, and the Commission authorizes the Director of Planning to approve site plan modifications recommended by the Fire Marshal with respect to turn arounds on or off the site. It is hoped that the applicant will continue to work with the Fire Marshal to resolve these matters. As noted, the plans shall be revised accordingly.
- E. Before starting to physically implement any of these plans, the applicant must get final approval / permits from the Connecticut DOT because Hoyt Street is a State Road and also must finalize land ownership and easement issues with the affected private property owners. To complete the P&ZC file, copies of those finalized permits and conveyances shall be provided by the applicant to the Commission staff.
- F. The applicant is responsible for the costs associated with the implementation of this project, including the regrading and realignment of Wakemore Street. The applicant has proposed that the condominium units will be served by a private driveway and not a street. Since there is no new public road construction, the Commission waives the requirement for submission of a Performance Bond.
- G. The applicant has agreed to work with the DOT and make its best efforts to seek permission to have an additional emergency driveway to/from the site with a direct connection to Hoyt Street. This tertiary drive would only be needed or used if the previously emergency drive is not accessible. The site modifications shall include a second emergency driveway of stable ground conditions and which is not encumbered by vegetation or structures. Maintenance of this tertiary drive will be functionally maintained (unlike the previously approved and required emergency drive near the east end of Wakemore Street).
- H. Prior to preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- I. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or re-stabilized. The

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 11.

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.

- J. Rough site work for the project may commence once the sediment and erosion controls and other environmental protection measures are in place. Prior to the issuance of a Zoning or Building Permit for any of the proposed buildings, the Wakemore Street drainage system improvements and piping system to pass that water through the project site shall be completed.
- K. The applicant shall install the drainage system as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- L. A final “as-built” survey is hereby required for the work approved herein to certify that the site improvements (including drainage and landscaping along the new driveway and the relocated Wakemore Street) are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans.
- M. It is incumbent upon the property owner(s) to maintain the installed drainage system, including, but not limited to, maintenance on the underground structures, (such as inspection and clean out once every 18 months or more frequently as needed). A long-term maintenance plan for drainage shall be submitted for the Planning and Zoning Commission file, and implemented by the property owner(s)/condominium association. If a formal agreement is reached with Wakemore Street property owners, a copy of such agreement shall be submitted for this file.
- N. All conditions and stipulations of the previous approvals are still in full force and effect except as specifically modified by this action. The time periods to implement the project are not modified by this action.
- O. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The applicant shall provide to the Commission a copy of the permits/approvals from ConnDOT and Metro North for the work on Hoyt Street and near the railroad tracks.
- P. 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 this permit as it deems appropriate.
- Q. This permit, for the drainage work and the revisions to the Wakemore Street, shall be subject to the provisions of Sections 1009 and 1025 of the Darien Zoning Regulations, including but not limited to the completion of this aspect of the construction work of the approved plan within

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 12.

two years of this action (by July 6, 2011). This will allow the applicant time to pursue approvals from the State DOT. This approval may be extended as per Sections 1009 and 1025.

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. All completed requirements and materials shall be completed and submitted to the Planning and Zoning Department within 90 days of this action and filed in the Darien Land Records or this approval shall become null and void.

Chairman Conze then read the following agenda item:

**Land Filling & Regrading Application #207-B, William & Rose-Marie Shanahan, 58 Sunswyck Road.** Proposing to fill and regrade in association with the construction of a new residence and pool, and perform related site development activities.

Mrs. Grimes returned to the meeting. Commission members noted that the sequencing of the construction aspect of this project is very important. It is also important **not** to have trucks and equipment parked within the street or within the homeowner's association right of way. All trucks and equipment need to be kept on the private property where the development is occurring. It was indicated that a sequencing detail from the applicant will be necessary. That requirement was added to the resolution.

The following motion was made: That the Commission adopt the following revised resolution to approve the application. The motion was made by Mr. Spain, and seconded by Mr. Finke and unanimously approved. They adopted the resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 7, 2009**

Application Number: Land Filling & Regrading Application #207-B

Street Address: 58 Sunswyck Road  
Assessor's Map #62 Lot 22-1

Name and Address of Property Owner	William & Rose-Marie Shanahan 5 Conant Place Darien, CT 06820
---------------------------------------	---

Name and Address of Applicant & Applicant's Representative:	Wilder G. Gleason, Esq. Gleason & Associates, LLC 455 Boston Post Road, Suite 201 Darien, CT 06820
--	---

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 13.

Activity Being Applied For: Proposing to fill and regrade in association with the construction of a new residence and pool, and perform related site development activities.

Property Location: The subject property is located on the east side of Sunswyck Road, approximately 650 feet south of its intersection with Tory Hole Road.

Zone: R-1 Zone

Date of Public Hearing: May 26, 2009 continued to June 9, 2009 and June 23, 2009

Time and Place: 8:00 P.M. Auditorium (5/26) Room 206 (6/9, 6/23) Town Hall

Publication of Hearing Notices

Dates: May 14 & 21, 2009

Newspaper: Darien News-Review

Date of Action: July 7, 2009

Action: APPROVED WITH  
CONDITIONS

Scheduled Date of Publication of Action:

July 16, 2009

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 contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is for regrading around the previously approved residence. Some of the regrading will extend more than 25 feet from the house, thus, Commission approval is required. This regrading is in the central portion of the site.
2. At the June 23, 2009 public hearing, the applicant noted that a coordinated effort with the neighbor and the private road owner, the Delafield Island Association, and the property owner has resulted in an application to the Darien Environmental Protection Commission (EPC) to remedy existing drainage issues on the western portions of the site, in and near Sunswyck Road. A plan entitled, "Proposed Road Drainage Improvements" was submitted, showing a proposed

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 14.

catch basin and pipe. That work does not require review or action by the Planning & Zoning Commission, and thus, is outside the jurisdiction of this Commission.

3. The Commission notes with respect to the drainage system around the house, the need for the applicants to file a document outlining the protocol for 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.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #207-B 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 plans submitted to and reviewed by the Commission:
  - Shanahan Residence, Stormwater Drainage & Sedimentation/Erosion Control Plan by Stearns & Wheler, last revised 4/09, Sheet SP-1.
  - 58 Sunswyck Road Overall Grading Plan, by Gregory Lombardi Design Inc., scale 1"=30'-0", dated 04/20/09, Sheet L1.00.
  - 58 Sunswyck Road Overall Planting Plan, by Gregory Lombardi Design Inc., scale 1"=30'-0", dated 04/20/09, Sheet L2.00.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Upon completion of the work, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans.
- C. All trucks and construction vehicles shall be parked off of Sunswyck Road in order to minimize the impacts of this construction project on the neighbors. A construction sequencing plan shall be prepared and submitted to the Planning & Zoning Director for his review and action prior to the implementation of this project.
- D. The applicant shall install the drainage system as shown on the submitted plans in Condition A, above. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 15.

- E. By September 5, 2009(within the next 60 days) 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 58 Sunswyck 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 as well, within the next 60 days of this approval and prior to the start of any filling or regrading work around the house.
- F. During the regrading and site work, the applicant shall utilize the sediment and erosion controls illustrated on the plan referred to in Item 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.
- 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.
- 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 (July 6, 2010). 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 and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Chairman Conze then read the following agenda item:

**Land Filling & Regrading Application #145-B, Gene Sykes, 5 Homewood Lane (formerly known as 14 Cross Road).** Proposing to construct a swimming pool, terrace, spa, pool house, with associated retaining wall and steps, and perform related site development activities.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 16.

Commission members briefly discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project. The motion was made by Mrs. Grimes, seconded by Mr. Finke. All voted in favor, except Mr. Bigelow, who had not attended the public hearing regarding this matter. They adopted the resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 7, 2009**

Application Number: Land Filling & Regrading Application #145-B

Street Address: 5 Homewood Lane (formerly known as 14 Cross Road)  
Assessor's Map #65 Lot #3

Name and Address of  
Property Owner: Gene Sykes  
1827 Westridge Road  
Los Angeles, CA 90049

Name and Address of Applicant  
And Applicant's Representative: Edward Figura  
Benedek & Ticehurst  
448H Old Post Road  
Bedford, NY 10506

Activity Being Applied For: Proposing to construct a swimming pool, terrace, spa, pool house, with associated retaining wall and steps, and perform related site development activities.

Property Location: The subject property is located on the north side of Cross Road at the northwest corner formed by its intersection with Homewood Lane.

Zone: R-1 Zone

Date of Public Hearing: June 23, 2009

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

Publication of Hearing Notices  
Dates: June 11 & 18, 2009 Newspaper: Darien News-Review

Date of Action: July 7, 2009 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review  
July 16, 2009

The Commission has conducted its review and findings on the bases that:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 17.

- 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's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct a swimming pool, terrace, spa, pool house, with associated retaining wall and steps, and perform related site development activities. This project was previously approved by the Planning and Zoning Commission on September 4, 2007, as part of Land Filling & Regrading Application #145-A, but the work was not implemented and that permit expired. The only difference between this application and that application is that this application adds a spa.
2. Although extensive site work is proposed, none of the structures, filling, or regrading is located within the wetlands, or the 50 foot regulated area around the wetlands, or within the designated flood hazard zone.
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 #145-B is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling, regrading, and construction of the pool with associated retaining wall shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - Site Plan for Mr. & Mrs. Gene Sykes, by Benedek & Ticehurst, last revised 4/10/08, Sheet SP-1.
  - Grading Plan for Mr. & Mrs. Gene Sykes, by Benedek & Ticehurst, last revised 4/10/08, Sheet SP-2.
  - Sections & Details for Mr. & Mrs. Gene Sykes, by Benedek & Ticehurst, Sheet SP-3.
  - Erosion Control & Drainage Details for Mr. & Mrs. Gene Sykes, by Benedek & Ticehurst, Sheet SP-4.
  - Retaining Walls, Sykes Residence 5 Homewood Road, by Cowley Engineering, dated 1/14/2008, Drawing S-1.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 18.

- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. The Commission strongly recommends that the applicant perform a pre and post blast survey of all adjacent structures if the owner determines that blasting will be necessary on the site.
- E. Once the site work and landscaping are completed, and prior to the use of the proposed pool or pool house, an as-built drawing and written verification prepared by the project designer is hereby required, to certify that the site improvements are all completed in compliance with the approved plans.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies.
- H. 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 (July 6, 2010). 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. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Conze then read the following agenda item:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
JULY 7, 2009  
PAGE 19.

**Approval of Minutes**

*June 2, 2009                      Public Hearing/General Meeting*

The motion was made to approve the minutes as drafted. The motion was made by Mr. Bigelow, seconded by Mrs. Grimes. All voted in favor, except Mr. Conze who had not attended the June 2 meeting.

*June 9, 2009                      General Meeting/Public Hearing (two sets of minutes)*

Commission members discussed the draft minutes of both the regular meeting and the Special Meeting which began at 7:15pm. Mr. Spain made a motion to approve both sets of minutes as amended. That motion was seconded by Mr. Finke and unanimously approved.

**Any Other Business (Requires two-thirds vote of Commission)**

Mr. Ginsberg noted that there was one matter to be considered under “Other Business”—a proposed sign. Mr. Finke made a motion to go into other business to discuss that one item. That motion was seconded by Mr. Spain and unanimously approved.

Mr. Ginsberg explained that an application was submitted to the Architectural Review Board (ARB) for a proposed sign at 975-1001 Boston Post Road. That sign would be a ground sign, which would read: “Darien Crossing—Parking for Customers of 975-1001 Post Road & Squab Lane only. Violators will be towed at their own expense”. He then showed a copy of the proposed sign to Commission members. Mr. Ginsberg noted two issues with this proposal—the first is that ground signs are not allowed within the CBD zone, and the second is the policy is not customer friendly.

The Commission then briefly discussed the proposal, and noted their concerns. The request was denied by a vote of 6-0. Commission members then had a brief discussion regarding parking and towing in downtown parking lots.

There being no further business, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

David Keating  
Assistant Planning & Zoning Director