

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
May 26, 2009**

Place: Auditorium  
Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Keating  
RECORDER: Syat

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**PUBLIC HEARING**

Chairman Conze read the first agenda item:

**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. The subject properties are located on the east side of Hoyt Street, approximately 25 feet north of its intersection with Wakemore Street and are shown on Assessor's Map #8 as Lots #204, #206, #207, #210-211, #212-213, #214-215, #228-229 in the R-1, R-2, R-1/3, and R-1/5 Zones, and the DCR Overlay Zone.

Mrs. Grimes noted that she is an adjacent property owner and wanted to avoid any perception of any conflict of interest. She decided not to participate in this matter. She recused herself and left the room.

Attorney Bruce Hill represented the applicants and explained that the 2007 approval granted by the Planning & Zoning Commission was still valid. In order to proceed with the project, the applicant needed to finalize their plans to create a driveway to Hoyt Street which is a state road and in the vicinity of the railroad crossing. The Connecticut Department of Transportation (DOT) eventually determined that they did not want the new driveway to be located in the same position as the old/existing driveway mainly due to the entrance's close proximity to the Metro North track crossing of Hoyt Street. The decision of DOT will require that the driveway location be modified. Attorney Hill explained that the applicant has acquired several properties adjacent to Wakemore Street, located to the south of the project, so that the site can be accessed via Wakemore Street rather than directly from Hoyt Street. The intersection of Wakemore Street and Hoyt Street will need to be reconstructed to have a less severe slope at the intersection and to accommodate the new access driveway for the project. Attorney Hill explained that the driveway relocation will result in the movement of the community building within the approved development. There will be no increase in the number of dwelling units or number of buildings or the function of the buildings. He said that several lot line adjustments would be implemented with the neighbors to facilitate the new driveway configuration.

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Bob Dale, one of the principals of Hoyt Street Partners, LLC said that the Department of Transportation representatives initially had thought that the new driveway entrance directly from Hoyt Street would be expensive, but would not get denied. However, it eventually became apparent that no design for the driveway in the present location would be acceptable to DOT since it was so close to the railroad crossing. He said as a result, the applicants have reached agreement with neighboring property owners to relocate the access drive into the site and to improve the Wakemore Street and Hoyt Street intersection. He said that one of the items that they must do is improve the sight line at that intersection so that motorists coming out of Wakemore Street will be able to see at least 350 feet in a southerly direction along Hoyt Street. This will require removal of several obstructions within the Hoyt Street right of way. They are also relocating the intersection to be a little farther north from its present position in order to further improve the sight lines. He said that many alternatives have been studied and analyzed to determine what will be safe and code compliant. He said that the Department of Transportation staff has indicated that they will support this proposal as it is formally submitted to the Department of Transportation Commission, after all the necessary Town approvals have been obtained.

Mr. Dale said that the entrance to the project will now be from Wakemore Street and the intersection of Wakemore Street and Hoyt Street will be improved. He said that they have met with the neighboring property owners to discuss the project and the neighbors' concerns. One concern of the neighbors is the possibility of installing a traffic light at the intersection of Wakemore Street and Hoyt Street. Mr. Dale said the Department of Transportation has said that they will not allow a traffic light at that location. Another concern of the neighbors is the steep grade in Wakemore Street. He said that the grade of the westerly portion of Wakemore Street is now approximately 12%. It will be reduced to 5% closest to the intersection. He said that they are also studying ways to remove the knob or high point just to the east of the proposed driveway location. This would make it even safer for vehicles turning left from Wakemore Street into the project and vehicles turning right as they exit the project onto Wakemore Street.

Mr. Dale said that part of this project now involves the removal of a two family house located at 277 Hoyt Street. He said that the redevelopment of that property would result in one single family house that complies with the Regulations. This would not be part of the proposed development.

In response to a question about who owns Wakemore Street, Attorney Hill said that the street was apparently created as part of a 1906 subdivision of property. He said that there is no formal association of homeowners and that essentially it is an abandoned, private road. This would typically mean that the adjacent property owners own to the center line of each street by a function of law and abandonment; but none of the deeds of the property actually read that way. He said that collectively the owners have performed some maintenance work and that most owners pay \$100 a year for the plowing of snow. Mr. Dale said that part of the Hoyt Street Partners, LLC agreement with the neighbors is that Hoyt Street Partners will revise, and reinstall the road and landscaping within the street right-of-way from Hoyt Street up to the entrance driveway into the project. He said that the Partnership will also participate in a street maintenance agreement that is formally drafted by the homeowners.

Attorney Hill said that the developer-applicants had thought that the first plan would be acceptable to the Department of Transportation, but the DOT eventually decided not to approve the re-use and redevelopment of the old driveway. He said that the revised driveway plan will not change the

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previous agreement that the Partnership made with the neighbors regarding the installation of a drainage system within the subject property in order to correct the existing drainage problem in Wakemore Street.

Mr. Spain expressed concern that the emergency access driveway located on the east end of Wakemore Street would now be on the same street as the primary entrance and exit to the site. He said that an accident at the intersection of Wakemore Street and Hoyt Street could cut off the emergency and the regular access driveways. He said that this would not be safe because it would not be unreasonable to forecast that all access and egress to the site could be hindered by a single accident. Mr. Hill said that there is no proposed change from the previously approved plan with respect to the emergency access driveway. Mr. Spain said that he is concerned about the emergency access problem and also about the steep grades. At present, only the residents of Wakemore Street use this steep grade entering into Wakemore Street. The proposed redevelopment of the Wakemore Street / Hoyt Street intersection will improve the grade somewhat, but not to the extent of making the intersection comply with the Regulations. Considerably more traffic will utilize the Wakemore Street/Hoyt Street intersection if the project is to be accessed from Wakemore Street.

Mr. Dale said that they will try to get approval from the Connecticut Department of Transportation to use the existing driveway from Hoyt Street as an emergency access. They will also try to provide emergency access adjacent to one of the cemeteries and then set up an access to Hoyt Street via that route.

Attorney Hill said that the applicant would be willing to continue the public hearing on June 9, 2009 in order to further investigate this issue. He also felt that there is very little chance of a complete blockage of the intersection of Hoyt Street and Wakemore Street.

Mrs. Gioia of 17 Wakemore Street said that she would like some form of notification of the next meeting. She said she is not opposed to the revised plan, but has some concerns. She felt that a three dimensional model would be appropriate as would a detailed landscaping plan. She said that a clear articulation of the long term maintenance of Wakemore Street should also be included as part of the proposal.

Commission members agreed that a continuation would be appropriate. There were no further comments from the public at this time. The following motion was made: That the Commission continue the public hearing regarding this matter at 8:00 P.M. on June 9, 2009 in the Town Hall. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

Mr. Conze read the following agenda item:

**Special Permit Application #172-D/Site Plan, Darien Diner (former Driftwood Diner), 171 Boston Post Road.** Proposing to construct first floor additions to the front of the existing building, install a handicap access ramp, and perform related site development activities. The subject property is on the northeast corner formed by the intersection of Richmond Drive and Boston Post Road, and is shown on Assessor's Map #12 as Lot #35 and is located in the SB-E Zone. *PUBLIC HEARING WAS OPENED ON 4/28/2009 AND CONTINUED TO 5/26/2009. DEADLINE TO CLOSE PUBLIC HEARING IS 6/2/2009 UNLESS EXTENSION IS GRANTED BY APPLICANT.*

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Mrs. Grimes returned to the meeting. Loren Meyer, Project Architect, from Sound Architecture explained that the applicant has obtained a number of variances from the Zoning Board of Appeals to slightly modify the existing building. The building was built about 12 years ago and very recently there is a new tenant operating the diner. The parking variance requests have been denied by the Zoning Board of Appeals and thus, the proposed expansion of second floor and conversion of the second floor to customer space has been withdrawn from the Planning & Zoning Commission application. A copy of the ZBA Adopted Resolution was submitted. Mr. Meyer noted that the "by right" buildable area of this property is very small and therefore, any expansion needs variances from the Zoning Board of Appeals before they can obtain site plan approval from the Planning & Zoning Commission. The only portion of the proposal that remains is the addition of an enclosure of the two areas on both sides of the main door that faces the Boston Post Road. These areas are already covered by the roof and enclosing them will create an energy efficient air lock or vestibule type area. Proposed canopies to shade the south and west side windows have been reviewed and approved by the Architectural Review Board and ZBA. The enclosure of the foyer vestibule area will not increase the number of customer seats or the customer capacity. It will provide for a more energy efficient design and for a small amount of additional customer waiting area. To accommodate this change, a slight modification must be made to the access ramp that leads from the parking area to the front door. There is no change to the parking area. The second floor expansion and customer seating area portion of the application has been withdrawn.

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

Mr. Conze read the following agenda item:

**Special Permit Application #254/Site Plan, Rachel Haughey d/b/a Espresso Neat, 20 Grove Street.** Proposing to establish a coffee house in the space formerly occupied by JD Cosmetics and to place outdoor tables and chairs on the 20 Grove Street property. The subject property is located on the north side of Grove Street, directly across from its intersection with Brook Street, and is shown on Assessor's Map #73 as Lot #22 in the CBD Zone.

Rachel Haughey explained that she proposes to establish a coffee house in the space formerly occupied by JD Cosmetics. This is a first floor, retail space in the existing building at 20 Grove Street. Assistant Director of Planning, David Keating, noted that comments received by various staff departments indicate that Ms. Haughey is working with the Health Department to finalize details regarding the kitchen and food preparation areas. It was noted that the original design of this project incorporated this space to be retail area, not a food service use. The inclusion of food service may make the trash enclosure area slightly more cumbersome.

Outside seating is proposed within the open area adjacent to the dedicated public plaza. The public plaza is still privately owned property, but it is specifically dedicated for public use. The seating proposed by the business is located just outside the publicly dedicated space. There would be 4 tables and 12 seats located outside the building. Ms. Haughey indicated that there would be no employee service provided to the customers outside, but that she and her staff would make sure that the outside area is clean and well maintained. Within the building, there will be 21 seats at 5 tables.

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Mr. Bigelow noted that the outside seating needs to be of a specific size and locations of the tables and chairs to avoid obstructing the pedestrian flow or impeding the designated walkway areas. Mr. Spain said that the large, 4 foot diameter table might be an impediment and might need to be reduced in size. Mr. Conze noted that in any approval, the Commission can stipulate that the tables and chairs not impede the pedestrian flow.

Dan Dolcetti of 55 Noroton Avenue said that he supports the proposal and that the community will benefit from this much needed outside activity. He said that the proposed business would be good for the downtown area.

Mrs. Grimes noted that it would be important that the parking spaces adjacent to the business not be occupied by employee vehicles. It is important to leave the parking spaces close to the business for the patrons. She also indicated that it will be necessary for the operator of the business to coordinate the delivery truck activity so as not to impede the flow of customer traffic or access to customer parking spaces.

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

Mr. Conze read the following agenda item:

**Coastal Site Plan Review #177-A, Flood Damage Prevention Application #188-A, Judith Snow, 31 Shipway Road.** Proposing to raze the existing fire-damaged residence, and construct a new single-family residence, renovate the existing pool and spa, and perform related site development activities within regulated areas. The subject property is located on the north side of Shipway Road approximately 300 feet east of its intersection with Plymouth Road, and is shown on Assessor's Map #55 as Lot #129, R-1 Zone.

Roger Bartels, Project Architect, explained that a November 2008 fire substantially damaged the existing 3,800 square foot house. The replacement house is proposed in virtually the same location, but will comply with the current zoning setback requirements and the Federal Emergency Management Agency (FEMA) requirements for building within a flood hazard area. The house is in an A-12 Flood Zone with the expected flood levels to be up to Elevation 12 feet above sea level. Mr. Bartels explained that the proposed house is designed so that the first floor is at Elevation 14 feet, two feet above the expected flood level. Due to family needs, the first floor will be accessed via a ramp from the driveway and there will be elevator service within the house. A small portion of the entry area between the house and garage will have the floor elevation at the garage level so that the elevator can access this area. Mr. Bartels noted that the current proposals included unfinished attic, but it has been designed so that some of that attic space can be finished in the future.

Steve McAllister of McChord Engineering explained that the existing house is served by an on-site septic system. The new house will be served by connection to the sanitary sewer. New storm drainage structures will be added to the site to cleanse the storm water run-off from the roof and other impervious areas before the run-off is discharged to the adjacent waters of Darien Harbor. He noted that the submitted site plan indicates that some of the air conditioning unit would be slightly

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too close to the northerly property line. He said that this will be revised so that all of the AC equipment will be shifted to comply with the setback requirements. Mr. McAllister noted that there is no construction or building activity within the 100 foot critical area adjacent to mean high water and that the Connecticut Department of Environmental Protection had no comments or concerns regarding the project. Assistant Director of Planning, David Keating, read aloud the Connecticut DEP response indicating that they did not have any comments or concerns.

There were no comments from the public. There being no further comments, the following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter. The motion was made by Mr. Finke, seconded by Mr. Bigelow and unanimously approved.

Mr. Conze read the following agenda item:

**Flood Damage Prevention Application #272, Land Filling & Regrading Application #226, Joanne Frawley, 37 Greenwood Avenue.** Proposal to construct additions and alterations to the existing residence, to fill and regrade in association with the driveway and parking area, and perform related site development activities within a regulated area. The property is situated on the west side of Greenwood Avenue approximately 1000 feet north its intersection with Camp Avenue and is shown on Assessor's Map #8 as Lot #152, and is located in an R-1/3 (residential) Zone.

Architect Anthony Totilo represented the applicant and explained that the existing house will remain intact and would be renovated and additions would be constructed. Part of the house is within the Flood Hazard Zone. They have applied to the Zoning Board of Appeals and obtained the necessary variances to proceed with the project. They have also obtained approval from the Environmental Protection Commission because some of the storm water pipe relocation work will be near the Noroton River and thus, within the jurisdiction of the Environmental Protection Commission. The EPC has approved the project. Plans for the proposed additions and renovations were discussed. It was noted that an off-street parking area will be created.

John Pugliese, Professional Engineer, represented the applicant and discussed the relocation of the existing storm water pipe that travels from Greenwood Avenue toward the Noroton River. Due to the location of the proposed garage, that existing pipe must be relocated at the applicant's expense. The discharge of the new pipe will be in virtually the same location as the existing pipe. A silt and sediment trap area will be created at the discharge of the new pipe so that the area can be cleaned and maintained on a regular basis. He said that this design will be better than the existing discharge which has no ability to improve water quality or dissipate the energy of the water volume. He said that maintenance of the drainage system will involve cleaning of the catch basin sump area near the street and cleaning of the sediment trap near the River on an annual basis. As requested, he will provide a drainage maintenance and cleaning procedure and schedule.

Assistant Director of Planning, David Keating, confirmed that the Zoning Board of Appeals variance and Environmental Protection Commission approval had been obtained. He read the South Western Regional Planning Agency comments indicating that they had found no inter-municipal contact, but suggested that the project be referred to Stamford. Mr. Keating said that the plan had been referred to Stamford and no comments had been received. He said that the Department of Public Works had submitted a number of comments regarding the relocation of the pipe and the applicant will need to

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comply with the Department of Public Works' criteria. The Health Department also submitted comments indicating no major problems with the project.

The relocation of the old drainage pipe was discussed. Kevin Frawley explained that there is still some question about whether the Department of Public Works or the private property owner will maintain the pipe that drains from the street toward the Noroton River. He is not sure how that will be worked out, but it will be resolved.

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

Mr. Conze 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. The subject property is located on the east side of Sunswyck Road, approximately 650 feet south of its intersection with Tory Hole Road, and is shown on Assessor's Map #62 as Lot #22-1 in the R-1 Zone.

It was noted that the neighboring property owner has hired an engineer to analyze the proposal and they have requested an extension of time and a continuation of the public hearing. The applicants' attorney has agreed to continue the public hearing to a later date to allow the engineer for the neighbor time to analyze the plan. The following motion was made: That the public hearing regarding this application shall be continued on June 9, 2009 at 8:00 P.M. in the Darien Town Hall. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

There being no further business, the meeting was adjourned at 9:35 P.M.

Respectfully submitted,

David Keating  
Assistant Planning & Zoning Director