

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
April 14, 2009**

Place: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Bigelow, Hutchison, Finke and Grimes. Conze arrived at 8:30 p.m.

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat

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At 8:00 p.m. it was noted that Chairman Conze would be late and therefore Vice Chairman Peter Bigelow opened the meeting. Due to Mr. Conze's delayed arrival, the order of the agenda was modified so that Mr. Conze could participate in certain discussions. Mr. Bigelow read the following agenda item:

Modifications to Special Permit Applications #60-F and #60-H, Country Club of Darien, 300 Mansfield Avenue.

Request to 1) modify the roadway and parking components; 2) modify the two previously-approved buildings to be four smaller buildings with a smaller footprint overall, with associated changes to a paved parking area and cart path. Also, a request for extension of time until September 1, 2010 to implement the approved plan.

Director of Planning, Jeremy Ginsberg, noted that the construction work on the site must be done outside of the golf season. Jackie Olschan, the attorney for that club, has submitted two letters requesting modifications of the approval. Mr. Ginsberg said that the Environmental Protection Commission has already approved the requested revisions. Mr. Bigelow noted that the location of the work is roughly in the center of the very large site and is not near the neighboring property owners.

After further discussion, the following motion was made: That the Commission approve the requested modifications with respect to the roadway and parking layout. The motion was made by Mr. Hutchison, seconded by Mr. Finke, and unanimously approved. The following motion was then made: That the Commission approve the requested modifications regarding the previously approved building to be four smaller buildings with a smaller footprint and the associated changes to the paved parking area and cart path. The motion was made by Mr. Hutchison, seconded by Mr. Finke and unanimously approved. The following motion was then made: That the Commission approve the requested extension of time until September 1, 2010 to implement the approved plans. The motion was made by Mr. Hutchison, seconded by Mr. Finke, and unanimously approved.

Mr. Bigelow read the following agenda item:

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Review and Discussion of Draft Design Guidelines Document.

Debbie Parnon of the DRI Design Committee explained that many people had worked on the study and the report to develop guidelines that are to be coordinated, easy access of the appropriate information that is needed by property owners and designers and applicants. Photographs are included in the draft design report as examples, but are not necessarily the only way that the goals can be accomplished. She thanked Sandy Fillmore and the other committee members along with Town officials and local architects who had worked on the draft guidelines. Mr. Hutchison suggested that the guidelines should be more detailed about what to have between the sidewalk at the front edge of the property and the front of the building. That area might be used for landscaping or benches or more sidewalk. Mrs. Parnon noted that the specifics would always be subject to the design presented by the applicant and the review by the Town agencies. In each case, the building design and site development needs to be blended with the surrounding areas and coordinated with the other properties in the area.

Debbie Parnon noted that it is easier to inform the applicants and the designers what the Town goals are in the beginning and have them read the guidelines before they develop their design, rather than changing what has already been designed. Mrs. Grimes asked about how to give the design guidelines more weight and importance. Mrs. Parnon said that the effective way is to have the guidelines available for the applicants and then to have the Architectural Review Board and the Planning & Zoning Commission support the recommendations within the guidelines. She said that if applicants can save time and money by knowing the process and the guidelines, they will follow the guidelines. She said that the staff would be very important with respect to informing the potential applicants of the Regulations as well as the guidelines. Mr. Ginsberg said that there are currently no written detailed guidelines, just check lists and verbal advice from the staff. He said that these guidelines were drafted utilizing experience from within this community as well as other communities across the state. Mrs. Parnon said that they did try to include the Building Permit process and an explanation of the various Land Use Boards and Commissions. The photographs were included to illustrate examples of what has worked, but not to dictate what must be done. She said that they have not tried to rewrite the Regulations or merely copy them, but they have tried to provide detailed information about how to implement the Regulations and how best to design the planting and landscaping. Marian Castell noted that the guidelines do reflect the existing Regulations.

Mrs. Parnon asked the Planning & Zoning Commission to review the draft guidelines and then report back to her Committee during the month of April about any recommended changes so that the draft can be finalized. Mr. Bigelow noted that if the Planning & Zoning Commission changes the Regulations in the future, the guidelines will also need to be updated and changed so that the guideline document remains a relevant and usable piece of information. Mr. Bigelow thanked Mrs. Parnon and all the members of the Guideline Document Committee for their many hours of work on the project.

Mr. Bigelow read the following agenda item:

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Discussion of HomeConnecticut.

Andrea Sangrey of the Planning & Zoning Commission staff reviewed the fact that the Town had been awarded a grant of \$45,100.00 in August of 2008. Some of that money has been used for the studies and soft costs associated with the potential redevelopment of the property at 35 Leroy Avenue (the former Darien Library) site. She asked the Commission to try to think if there were any other sites in Town that would be appropriate for housing that the grant money might be used to study. Ms. Sangrey noted that the funding from the State of Connecticut is not likely to be resumed for at least a few years. Mr. Bigelow wondered whether it was worth it to make an application so that when the funding does become available, the Town will be ready to move forward. Ms. Sangrey noted that they will have applications ready rather than pausing and waiting for the money to be allocated. She will continue to keep in touch with the Connecticut Office of Policy and Management.

Mr. Bigelow read the following agenda item:

Business Site Plan #248, Day Street Development, LLC, 1015 Boston Post Road/13 Grove Street, CBD Zone. Request for extension of time until June 2, 2011 to implement the approved plan.

Mr. Ginsberg noted that the applicant has requested an extension to start the work and also a request to have an extension to complete the work within two years, by June 2, 2011. Mr. Bigelow noted that the typical condition of approval is to complete the site work within one year. In this case, the applicant will probably not even start the site work for one year. He noted that the typical extension is only for one year and recommended that the Commission only grant this extension for a one year time period. He said that if the applicant has a legitimate reason to request a further extension, they could come back to the Planning & Zoning Commission at some time in the future. Other Commission members agreed. The following motion was made: That the Planning & Zoning Commission grant an extension of one year so that the permits and approvals shall remain valid and the work is to be completed by June 2, 2010. The motion was made by Mr. Hutchison, seconded by Mrs. Grimes and unanimously approved.

Chairman Conze arrived at 8:35 p.m. He read the following agenda item:

Modification of Business Site Plan #246/Special Permit, Darien Library, 1441 Boston Post Road.

Proposal to modify traffic flow and make other traffic and parking-related improvements.

Mr. Ginsberg explained that the Library had been opened for approximately three months, and they have submitted a request for three changes or modifications or improvements to the access and parking area. Mr. Ginsberg said that he met at the site with the Library's traffic consultant, Mike Galante. The first requested modification has to do with the access into the site from Hecker Avenue and the traffic flow to the book drop-off area. The proposal would make the Hecker Avenue curb-cut closest to the Boston Post Road be an exit only. The entrance to the parking lot would be the curb cut that is farthest from the Post Road (and is located near the Police station.).

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The seconded requested modification is to make a wider turning radius for the entrance driveway from the Boston Post Road into the parking lot. Commission members noted that such an improvement is appropriate. The third requested modification is the designation of 7 of the parking spaces as being preferred for owners of hybrid vehicles. Commission members noted that the Regulations currently allow the only preference for the parking spaces for being handicapped access. This is required by State Statutes. There is no regulation that specifically allows parking spaces to be designated for particular types of vehicles. Mr. Ginsberg noted that the designation is not part of the site plan and is therefore not allowed without the Planning & Zoning Commission's approval. He said that the Commission could remain silent on the issue or they could approve or deny it, but in any case, it would set a precedent.

Mr. Finke said that the public interprets the signs as being a restriction rather than a preference. Mr. Bigelow noted that the perception of the public is very important because of the limited size of the parking lot. He said that he would rather have non-hybrid vehicles in the parking spaces rather than having those extra cars parked out on the street. Mr. Ginsberg noted that the signs only give preference to hybrid vehicles and there is no enforcement of this preference by the Police Department or the Zoning Enforcement Officer. Mr. Conze suggested that the Commission could let the preference signs that have been installed stay as they are and see what happens. Other Commission members believed that a more detailed sign should be created to explain to the public that the spaces are only preferred for hybrid vehicles. Another thought was to have the preference signs for hybrid vehicles moved to an outer portion of the parking area.

After further discussion, the Planning & Zoning Commission agreed that the signs regarding preference for hybrid vehicles within some of the parking spaces would not be approved at this time, but would be considered at a future date when more information is provided by the Library. The first and second requests, regarding the traffic flow into and out of the parking lot from Hecker Avenue and the modification of the curb cut along the Boston Post Road were unanimously approved.

Mr. Conze read the following agenda item:

Modification of Business Site Plan #247, Baywater Post Road Associates, 1014-1020 Boston Post Road. Proposal to relocate dumpster, and make associated changes to the existing parking lot.

Mr. Ginsberg explained that the request is to modify the trash dumpster area to improve the site lines within the parking lot. Commission members agreed that the modifications were necessary and appropriate. The following motion was made: That the Commission approve the requested modifications of the dumpster area as noted in the submitted materials. The motion was made by Mr. Bigelow, seconded by Mr. Finke, and unanimously approved.

At about 8:45 P.M., Mr. Conze read the following agenda item:

Informal discussion with Tom Golden regarding Noroton Heights.

Attorney Bruce Hill represented Mr. Golden and said that an informal discussion had also been conducted in January of 2008. It was noted at that time that the Commission would like to look at

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the entire district as a whole, not just at the Golden properties, and how they might be redeveloped. He said that the Noroton Heights business area is roughly bounded on the east by Noroton Avenue, on the north by West Avenue, on the west by Hollow Tree Ridge Road, and on the south by Heights Road. He said that they have prepared some rough conceptual plans, but they have not worked on many of the details that will need to be addressed. He asked that the Commission consider threshold questions such as: what should the business area look like in the future and what Zoning Regulations need to be adopted in order to achieve those goals. He noted that the present designation as Designed Commercial (DC) Zone envisions a low density development with dependence on motor vehicle access to each and every site. He said that the impression that he has is that the Commission would prefer a more dense development that is similar to the Central Business District (CBD) that would allow redevelopment of the properties at a higher density and yet would still include the important aspect of protecting the nearby residential uses. He said that he also got the impression that the Commission wants the redevelopment of the commercial properties to include residential uses as well. He submitted certain pages from the 2006 Town Plan of Conservation & Development that include items such as coordination of curb cuts, encouraging parcel assemblage, encouraging one stop parking and then walking to various business uses, allowing a third floor for housing providing it is set back from the streets, addressing the parking, traffic, drainage and affordable housing needs of the community through the redevelopment. Attorney Hill said that one of the main aspects to accomplish these goals would be a provision to allow underground or structural type parking that is not presently allowed by the Zoning Regulations.

Architect Bruce Beinfield reviewed with the Planning & Zoning Commission the conceptual renderings and drawings of the redevelopment of the Golden properties that currently contain the Stop and shop, Walgreens and Equinox. He noted that one of the goals was to reduce the curb cuts and the parking spaces that back into the public streets. He said that his building designs would generally include retail uses on the first floor and then office and/or residential uses on the second floor and then residential uses on the third floor. He said that the change in topography (the fact that the commercial property is lower than West Avenue) would allow the lowest floor of the building accessible from the Heights Road side to be commercial use and then the two floors above that to be accessible from West Avenue and look like a two story structure. He said that the buildings along West Avenue have been designed to be constructed up close to the sidewalk. A review of the plans indicates that it would look like a three story structure from West Avenue with the top level of penthouses or lofts or just mechanical equipment. The buildings will be set back 18 feet from the curb along West Avenue, but would be located much closer to the actual front property line along West Avenue.

The basement level of the buildings along West Avenue would be structural or basement level parking that would be utilized by the residents of the apartments and by the employees of the businesses. The at-grade parking would be located in the center of the block and would be accessible to the business patrons. The rough design includes approximately 104 residential units.

Tom Golden said that he owns 8.5 acres of land and is generally bounded by four streets on four sides. He said that the property is close to the Noroton Heights train station and Exit 10 of the Connecticut Turnpike. He explained that the proposed redevelopment would include mixed use including retail stores, offices and other retail type businesses and residential uses. He noted that the Planning & Zoning Commission had changed the Zoning Regulations with respect to the

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parking standards and he is anxious to work with the Commission to redevelop this site in a timely manner.

Mr. Finke said that the sense of scale appears to be too different from the existing residential uses on the north side of West Avenue, compared to the proposed redevelopment on the south side of West Avenue. Mr. Beinfield said that they have tried to have it appear residential from the West Avenue side and to be in scale. He contemplates three stories of building above an underground parking area. He said this makes sense due to the topography. Mr. Bigelow said that he has no problem with the concept of the underground parking, but it has to be carefully detailed. He also said that an affordable housing component is very important to the project and elderly housing should be considered. He also noted that major issues, such as flooding that has occurred in the area, need to be addressed and he hopes that the final version will look as nice as the preliminary sketches. Mr. Hill said that the redevelopment will need to provide storm water retention and therefore it will have a positive impact on drainage in the area. The current development has no storm water detention.

There was some discussion regarding the night time availability of parking spaces in the train station parking lot. Mr. Ginsberg said that he understands that the Town Regulations do allow the free use of the train station parking lot in the evenings and on weekends. Mr. Conze said that the plan appears to create a village like type of development and he urged that the applicant break up the asphalt parking area using trees and landscaping islands. He also suggested that using pavers for crosswalks would give it a softer, more residential feel. He said he likes the style of the architecture, but notes that breaking up the planes of the building will be necessary to avoid long expanses of flat walls. Mrs. Grimes said that it would be important to consider a possible connection to the Chase Bank property with a walk way or driveway. Mr. Hill replied that he did not know if that was possible, but would have the architect look into it. In response to another question, he did not know if there would be the available space for outside dining. Mr. Finke said that having restaurants at the site would get more people into the area at night.

No actions were taken regarding the conceptual design.

At about 9:40 P.M., Chairman Conze read the following agenda item:

Informal discussion with Richard Freedman of Garden Homes Management Corp., regarding 397 Boston Post Road.

Mr. Freedman said that his family has owned the office building at 397 Boston Post Road for many years and it is an older office building that now needs to be either substantially renovated or the use modified. He said that the rents paid by the commercial tenants have been stagnant for a number of years and the expenses continue to rise. He said that his family owns other office buildings and they have successfully converted those other buildings to residential uses. He said that people have changed how they conduct business and therefore there is less of a demand for this type of office building.

Mr. Freedman said that he proposes to convert the existing building into small residential units. 21 to 24 of the units would be studio units and 6 of the units would contain just one bedroom. The market rent would be \$1,200.00 to \$1,300.00 per unit and the affordable housing units would rent

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for \$800.00 to \$1,000.00. He said that depending on how many units would officially be designated as affordable housing units, the project could result in 21 to 35 moratorium points for the Town in accordance with the provision of Sections 8-30-g. He said that once the approvals have been obtained, the construction and conversion would take approximately 24 months. Mr. Conze said that the building is visible from the Boston Post Road even though it is set back from the street. He noted that the concept is reasonable, but it would be hard to make this old office building look like an attractive residential building.

Mr. Bigelow asked if Mr. Freedman would prefer only thirty percent of the units to be affordable or to have all of the units be affordable. Mr. Freedman said that some of those units have to be kept at market rent just so that there is a clear indication of what the market rent is. Mr. Freedman said that land area should not determine the density of housing units, particularly when discussing studio and one bedroom apartments. His concept is to convert the existing building and not to construct any new building or structures. He said that surprisingly, the studio apartments give the best rent return per square foot. He said that the provisions of Section 8-30g do not distinguish between a studio and a much larger affordable housing unit. He said that the average unit within the building would contain 450 to 500 square feet. The entire building contains approximately 17,000 square feet. Some of the space used for elevators and common hallways needs to be deducted from the calculations of square footage per unit. Mr. Freedman said that his company currently leases out approximately 104 studio apartments and the average is that 1.24 occupants per studio unit. For a one bedroom unit, the average is 1.35 occupants per unit. He stressed to the Commission that this is not a flop house or a rooming house, but rather an apartment building that has quality, modest priced, small units.

Mr. Conze said that it is worth having the architect do more design work, but that it is important that they do not skimp on the exterior design and maintenance of the building. Mr. Ginsberg said that one of the big issues is how to accomplish the proposed use. Mr. Bigelow said that the Commission should work with the applicant to accomplish the conversion of the existing building into small dwelling units.

No motions were made and no action was taken regarding the discussion.

Chairman Conze read the following agenda item:

Discussion, deliberation and possible decisions regarding:

Land Filling & Grading Application #221, Robert & Kitty Lavin, 480 Middlesex Road.

Proposing to fill and regrade adjacent to an existing residence to create a flat yard area and to perform related site development activities. *PUBLIC HEARING CLOSED 3/31. DECISION DEADLINE: JUNE 4, 2009.*

The Commission noted that there are three draft Resolutions regarding pending applications. The following motion was made: That the Commission waive the process of reading each draft Resolution aloud because each Commission member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Finke, seconded by Mrs. Grimes and unanimously approved.

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The Commission has conducted its review and findings on the basis 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 to fill and regrade adjacent to an existing residence to create a flat yard area and to perform related site development activities. The public hearing on February 24, 2009 was continued to March 24 for the applicant to revise the plans. The hearing scheduled for March 24 was immediately continued to March 31 to allow the applicant to work with the neighbor's engineer on resolving issues between the parties.
2. During the public hearing process, various changes have been incorporated into the plan. These include: on the high end of the property, the east end of the site, a one-on-one slope has been designed. The slope will cut into the existing embankment and will be stabilized using a reinforced material to promote the growth of vegetation to hold the soil in place; the underground drain has been relocated to the upper part of the steep cut in order to pick up storm water coming onto the Lavin property and before that water can run down the proposed one-on-one slope; an infiltration area has been added to the bottom of the site, not far from Middlesex Road; and a new catch basin has been proposed in the southwest corner of the site so that it will collect water and then be connected to the storm drainage system in the street.
3. The proposed berm along the south boundary line will minimize the likelihood of water from the Lavin property running onto the neighbor to the south. He said that some water from the Lavin property now moves toward the Starr property to the south, but the berm would intercept most of that water.
4. At the March 31 public hearing, the adjacent property owner, Mrs. Starr, noted her concerns with tree cutting, the proposed filling and regrading, and drainage. Mrs. Starr hired Redniss & Mead to review the plans on her behalf. The Redniss & Mead engineer, Craig Flaherty, submitted a letter reflecting Mrs. Starr's concerns.
5. In his letter, Mr. Flaherty noted that the Commission cannot approve the 1:1 slope on the high end of the property, the east end of the site. That slope was proposed to be cut into the existing embankment and will be stabilized using a reinforced material to promote the growth of vegetation to hold the soil in place. Section 854c of the Darien Zoning Regulations does not allow the Commission to approve this slope because it would be steeper than a one-on-two

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slope. The applicant submitted an alternate plan which includes a retaining wall. The slope in this area could then be reduced to a slope of one-on-two, and can be approved by the Commission.

6. Another concern raised at the March 31 hearing was that the fill to establish the berm near the south boundary would cover much of the root systems of trees that are located close to the boundary line. The trees would be endangered by the fill. It was suggested that the proposed pipe and the fill for the berm be shifted northerly by about ten feet so that there would be less work so close to the trees near the boundary line. In response to questions from the Commission at the March 31 public hearing, the applicant noted that changes in the plan can be accommodated. These changes include moving the pipe to feet farther from the Starr property line and modifying the proposed 1:1 slope at the top of the Lavin property.
7. The Commission notes 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.
8. The application has been reviewed by the Commission and as required to be modified herein, is in general compliance with the intent and purposes of Sections 850 and 1000.
9. The proposal, as modified herein, 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 #221 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, *as required to be revised herein*:
 - “Site Development Plan”, prepared for Robert Lavin, 480 Middlesex Road, by Land-Tech Consultants, Inc., dated 1/12/09 and last revised 3/31/09, Sheet 1 of 2.
 - “Cross Sections, Details & Notes”, prepared for Robert Lavin, 480 Middlesex Road, by Land-Tech Consultants, Inc., dated 1/12/09 and last revised 3/27/09, Sheet 2 of 2.
- B. Prior to any work commencing, the plans shall be revised to include the following:
 - The area of 1:1 (one-on-one) slope shall be modified to be a 2:1 (one-on-two) slope with a retaining wall. Under Section 854 of the Zoning Regulations, the Commission cannot approve a 1:1 slope.
 - The proposed curtain drain and the berm shall be moved to the north about ten feet further away from the Starr property line to the south. By moving the berm and the pipe, the Commission is encouraging the applicant to keep the five trees to that are shown to be removed along the southern property line. Any trees to be removed shall be shown on the final, revised plans.
 - There shall be a 12” high berm along the pathway of the pipe. This is in place of the swale, which was originally proposed.

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- C. The applicant's representative noted that the project should take about one week to complete. In order to minimize the likelihood of erosion, the Commission hereby requires that the project be timed to avoid rain. It is up to the project engineer to schedule the project accordingly.
- D. Part of the submitted plan involves the installation of the proposed underground storm water retention system and the connection of overflow pipes from the storage system to the catch basin on Middlesex Road. This connection is required by the Commission, and is subject to the applicant obtaining the proper permit from the Darien Department of Public Works. A copy of the permit from DPW is to be submitted to the Planning and Zoning Commission by the applicant by June 14, 2009, and before work commences.
- E. 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. This shall include written certification for the project's professional engineer that the approved grading and the drainage facilities have been installed according to the approved plans. The applicant shall provide as-built map(s) and drawings to illustrate the final finished grade, and installed drainage system, the trees and landscaping that have been planted, and that the soil has been properly stabilized.
- F. During the regrading and site work, the applicant shall utilize the sediment and erosion controls illustrated on the plan in Condition A, above, and any additional measures as may be necessary due to site conditions, including tree protection and having silt fence ring the property (as proposed by the applicant). 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. Due to the nature of the project (the steepness of the slope and the extent of land disturbance involved) the Planning and Zoning Commission will require a \$10,000 Performance Bond. This shall be in place for the extent of the work on the project. Once the regrading work and tree planting and drainage work and soil stabilization is completed per the approved plans, and the required as-built map and drainage certification submitted to the Planning & Zoning Office, the bond can be returned in full.
- H. The applicant shall install the drainage system as shown on the submitted "Development Plan" (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.
- I. Prior to the issuance of a Certificate of Zoning Compliance for the proposed work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by

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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 480 Middlesex 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.

- J. The Commission hereby requires that the overflow connection to the Town's storm drainage system via a new manhole on Middlesex Road.
- K. 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.
- L. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to approval from the Public Works Department for a proposed storm water detention system overflow into an existing catch basin on Middlesex Road.
- M. 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 (April 13, 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.

Mr. Conze read the following agenda item:

Coastal Site Plan Review #242, Flood Damage Prevention Application #271, Land Filling & Regrading Application #222, Marta LaRock, 2546 Boston Post Road. Proposing to construct an inground pool with associated grading and landscaping and perform related site development activities within regulated areas. *DECISION DEADLINE: JUNE 4, 2009.*

The Commission discussed the draft Resolution and noted that changes had been incorporated into the Resolution that will address concerns expressed by the neighboring property owner. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as detailed. The motion was made by Mrs. Grimes, seconded by Mr. Hutchison. All voted in favor except Mr. Bigelow who had not attended the public hearing regarding this matter.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 14, 2009**

Application Number: Coastal Site Plan Review #242
Flood Damage Prevention Application #271
Land Filling & Regrading Application #222

Street Address: 2546 Boston Post Road
Assessor's Map #54 Lot #2

Name and Address of Property Owner: Marta LaRock
And Applicant: 2546 Boston Post Road
Darien, CT 06820

Name and Address of Applicant's Representative: Philip J. Katz, PE
Katz Consulting Group, LLC
85 Lincoln Street
Stratford, CT 06614

Activity Being Applied For: Proposing to construct an in-ground pool with associated grading and landscaping and perform related site development activities within regulated areas.

Property Location: The subject property is on the south side of Boston Post Road, approximately 400 feet west of its intersection with Weeds Landing.

Zone: R-1/2

Date of Public Hearing: March 31, 2009

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: March 19 & 26, 2009

Newspaper: Darien News-Review

Date of Action: April 14, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 23, 2009

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 400 and 810 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- 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 an in-ground pool with associated grading and landscaping and perform related site development activities within regulated areas. About 150 square feet of the pool is within the regulated flood hazard zone. The proposed pool is to be 73 feet from Holly Pond. Most of the pool is within the 100 foot coastal area adjacent to Holly Pond. The area where the pool is proposed is now lawn.
2. The Darien Environmental Protection Commission (EPC) approved this project on February 4, 2009 as part of EPC #1-2009. That approval is hereby incorporated by reference.
3. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail regarding this application dated March 25, 2009. In that e-mail, they note that they "...do not have any comments at this time..."
4. At the public hearing, the neighbor to the west, Mrs. Fritsch, noted her concerns regarding the proposed application. Those concerns included the proposed plantings and the location of the proposed pool equipment. Her concerns were presented in a letter dated March 31, 2009. In response to those concerns, the applicant has agreed to relocate the proposed pool equipment and modify the plantings shown on "Site Plan Option 1".
5. The Commission notes that this property is directly adjacent to Holly Pond and the amount of proposed impervious surface is small (about 800 square feet). Thus no drainage system has been provided, and none is required by the Commission.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
8. 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.
9. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.

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10. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #242, Flood Damage Prevention Application #271 and Land Filling & Regrading Application #222 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the modifications noted below, construction of the pool, filling and regrading, plantings, and related activity shall be in accordance with the following plans, as required to be revised herein:
- “Exist. Conditions, Removals, & Erosion Controls”, LaRock Residence 2546 Boston Post Road, by Katz Consulting Group, LLC, dated 02/09/09, Sheet No. C-1.
 - “Site Plan Option 1”, LaRock Residence 2546 Boston Post Road, by Katz Consulting Group, LLC, dated 02/09/09, Sheet No. C-2A.
 - “Site Details”, LaRock Residence 2546 Boston Post Road, by Katz Consulting Group, LLC, scale as noted, dated 02/09/09, Sheet No. C-3.
- B. The aforementioned plans shall be revised to reflect the following:
- Relocation of the proposed pool equipment to be near the 12” pine tree near the house. That pool equipment shall be no closer than twelve feet from the Fritsch property line. This will move the equipment to be further from the Fritsch residence, and not be within the 100 foot regulated area from Holly Pond. However, this will put the equipment in flood zone AE13, and thus, it will need to be placed on a platform so that it is at or above elevation 13.0.
 - Modify the plantings on the plans (Sheets C-2A and Sheet C-3) to not have twelve 7’-8’ Norway Spruce along the Fritsch property line, but rather, bushes which will not exceed six feet in height. Such bushes could include species such as Holly bushes, hydrangeas, boxwoods, or rhododendrons. The proposed plants need to be specified as to species and size.

These revised plans shall be submitted to the Planning & Zoning Office for the Director’s review and action prior to the issuance of a Zoning or Building Permit for the pool, and prior to any work being commenced.

- C. During the public hearing, Commission members noted the presence of a pipe on the subject property within a ten foot wide drainage easement along the eastern property line extending from Boston Post Road to Holly Pond. In order to ensure that this pipe is not damaged during construction of the pool, the Commission requires that the location of the pipe be marked in the field prior to the start of work, to avoid trucks and other large vehicles driving over it.
- D. During construction, the applicant shall utilize sediment and erosion controls as shown on Sheet C-1 of the submitted plans, and as may be necessary due to site conditions. These sediment and

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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.

- E. A final “as-built” survey is hereby required to certify that the regrading, site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance 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 agency.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (April 13, 2010). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Conze read the following agenda item:

Land Filling & Regrading Application #223, Nassau Mansfield Avenue, LLC, 49 Mansfield Avenue. Proposing to regrade within fifteen feet of the north and south property lines in conjunction with the construction of a new single-family residence and to perform related site development activities.

The Commission members discussed the draft Resolution. The following Resolution was made: That the Commission adopt the following Resolution to approve the project. The motion was made by Mr. Hutchison, seconded by Mrs. Grimes. All voted in favor except Mr. Bigelow who had not attended the public hearing regarding this matter.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 14, 2009**

Application Number: Land Filling & Regrading Application #223

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Street Address: 49 Mansfield Avenue
Assessor's Map #17 Lot #14

Name and Address of Property Owner Nassau Mansfield Avenue, LLC
49 Mansfield Avenue
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Neil Hauck, AIA
Neil Hauck Architects, LLC
859 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to regrade within fifteen feet of the north and south property lines in conjunction with the construction of a new single-family residence and to perform related site development activities.

Property Location: The subject property is located on the west side of Mansfield Avenue approximately 200 feet north of its intersection with Sedgwick Avenue.

Zone: R-1/3 Zone

Date of Public Hearing: March 31, 2009

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: March 19 & 26, 2009 Newspaper: Darien News-Review

Date of Action: April 14, 2009 Action: APPROVED WITH
CONDITIONS

Scheduled Date of Publication of Action:
April 23, 2009 Newspaper: Darien News-Review

The Commission has conducted its review and findings on the basis 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.

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

1. The subject application is to regrade within fifteen feet of the north and south property lines in conjunction with the construction of a new single-family residence and to perform related site development activities. The existing residence will be razed, and a new single-family residence constructed. Some trees near the front and side property lines are to be removed as part of this application.
2. On March 25, 2009, the Darien Zoning Board of Appeals approved this project with conditions as part of Calendar #5-2009. Their approval is hereby incorporated by reference.
3. As part of this application, the applicant hired the engineering firm of Stearns & Wheler, LLC, to prepare a Drainage Report. To accommodate runoff from the proposed residence, driveway, and other proposed impervious surfaces, the applicant proposes to install a drainage system, including a swale. This drainage work is designed to minimize the potential impacts of the development and the associated grading. It is noted that the site currently has 20.8% of the site covered with impervious surfaces, and the proposal is for 25.8% impervious surface area (not building coverage, which is less, and limited to a maximum of 20%). The impervious surface area includes the proposed residence, driveway, decks, walkways, and walls.
4. The Commission notes the need for the applicants to file a document regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 #223 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:
 - “Site Plan”, Nassau Interests, LLC, 49 Mansfield Avenue, by Stearns & Wheler, LLC, dated 2/17/09, Sheet 2.
- B. Part of the submitted plan involves the installation of the proposed underground storm water retention system.
- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.

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- D. Upon completion of the work, and prior to the use or occupancy of the proposed new house, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans. This shall include written certification for the project's professional engineer that the drainage facilities have been installed according to the approved plans.
- E. During the regrading and site work, the applicant shall utilize the sediment and erosion controls illustrated on the Site Plan in Condition A, above, and any additional measures as may be necessary due to site conditions, including tree protection and having silt fence ring the property (as proposed by the applicant). 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.
- F. The applicant shall install the drainage system as shown on the submitted "Site Plan" (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.
- G. 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 49 Mansfield Avenue to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner, within the next 60 days and prior to the start of any filling or regrading work.
- H. 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.
- I. 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.
- J. 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

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within one (1) year of this action (April 13, 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.

Approval of Minutes

March 31, 2009

Public Hearing/General Meeting

The following motion was made: That the Commission approve the Minutes as submitted. The motion was made by Mr. Finke, seconded by Mr. Hutchison. All voted in favor except Mrs. Grimes and Mr. Bigelow who had not attended the meeting on March 31st.

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

The following motion was made: That the Commission consider under other business the discussion regarding the Town property at 35 Leroy Avenue. The motion was made by Mr. Finke, seconded by Mr. Bigelow and unanimously approved.

Mr. Ginsberg explained that the Town has acquired the property at 35 Leroy Avenue (the site of the former Darien Library). On a temporary basis, the Town is considering utilizing the parking lot as a paid parking area. This would not create a permanent use for the site nor would it involve any use of the building. Parking use would be controlled by sticker or by vouchers or similar manner much like the commuter parking lots are regulated.

In the discussion, it was noted that the Special Permit approval had been granted for the Library use and the parking lot supported that Special Permit use. The library use has been relocated and therefore establishing a use, even on a temporary basis, of a municipal parking lot would require a public hearing.

There being no further discussion, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

David Keating
Assistant Planning & Zoning Director