

**TOWN PLAN AND ZONING COMMISSION
TOWN OF FAIRFIELD
MINUTES OF MEETING – MAY 11, 2010**

The Town Plan and Zoning Commission held a meeting at 7:30 p.m., on Tuesday, May 11, 2010, in McKinley Elementary School, 60 Thompson Street, Fairfield, CT.

Members Present: Seth Baratz, Chairman; Bryan LeClerc, Vice Chairman; Don D’Andrea, Richard Jacobs, Secretary, Jim Kennelly, Deb Owens, Doug Soutar

Alternate Members Present: Sally Parker, Marc Valera, Matthew Wagner

Town Department Members Present: Joseph Devonshuk, Planning Director
James Wendt, Assistant Planning Director
Dolores Sansonetti, Clerk

Meeting Minutes Motion was made by Ms. Parker, seconded by Mr. Soutar and the members present unanimously **VOTED TO APPROVE** the meeting minutes of April 27, 2010.

Mr. LeClerc, Mr. D’Andrea, and Mr. Wagner abstained from voting on the minutes.

Ms. Parker sat in place for Mr. D’Andrea and Mr. Valera sat in place for Mr. LeClerc.

Closed Executive Session Richard Saxl, Town Attorney addressed the Commission regarding 291 Mill Hill Road, Subdivision Application of Nicole Paul for four (4) lots in an R-3 Zone. No action was taken.

85 Mill Plain Road Motion was made by Ms. Owens, seconded by Mr. Kennelly and the members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** the Compliance Application of 85 Pond Mill, LLC for expansion of a previously approved indoor recreational use (squash) with a request for reduced parking. D.I.D.

2000 Black Rock Turnpike Motion was made by Mr. Kennelly, seconded by Mr. Soutar and the members present **VOTED TO APPROVE** the Special Permit of Pasquale and Pietrina Santangeli pertaining to the construction of a second floor on an existing commercial building subject to the following condition:

1. An architectural covering shall be required for the gas piping/plumbing at the rear of the building to screen them from view.

For motion: Mr. Soutar, Mr. Baratz, Mr. LeClerc, Ms. Owens, Mr. Wagner

Against motion: Mr. Kennelly, Mr. Jacobs

PUBLIC HEARING

The following public hearing is recorded on tape and is available in the TP&Z office. Present for the hearing were members Mr. Baratz, Mr. LeClerc, Mr. Jacobs, Mr. D'Andrea, Mr. Kennelly, Ms. Owens, Mr. Soutar, Ms. Parker, Mr. Valera, Mr. Wagner.

323 Fairfield Beach Road Special Exception and Coastal Site Plan Application of the Town of Fairfield pertaining to Phase II, Penfield Pavilion reconstruction. A Zone

Richard White, Public Works Director, presented this application to the Commission.

Ms. Owens left the meeting during this presentation.

Zoning Regulation Amendment Application of the Town Plan and Zoning Commission to amend Section 2.12 (Flood Management) and Section 32.0 (Flood Protection).

James Wendt, Assistant Planning Director, presented this application to the Commission.

1215 Post Road Special Permit Application of Brick Walk Associates, LLC pertaining to a 24' x 26' addition. Center Des. Bus. Dist.

Atty. John Fallon presented this application to the Commission.

At the conclusion of the public hearing, motion was made by Mr. Kennelly, seconded by Mr. LeClerc and the members present unanimously **VOTED TO RETURN** to Executive Session and vote on the following applications and Mr. Wagner sat in place of Ms. Owens on the following applications:

131 Commerce Drive Motion was made by Mr. LeClerc, seconded by Mr. Soutar and the members present unanimously **VOTED TO APPROVE** the Compliance Application of UAG Fairfield CM, LLC for expansion of off-street parking subject to the following condition:

1. A bond shall be posted to secure site improvements.

85 Mill Plain Road Motion was made by Mr. Kennelly, seconded by Mr. Jacobs and the members present unanimously **VOTED TO APPROVE** the Compliance Application of 85 Pond Mill, LLC to establish an indoor recreational facility and a printing and publishing use in a portion of an existing building. Des. Ind. Dist.

275 Old Post Road Motion was made by Mr. Wagner, seconded by Mr. LeClerc and the members present unanimously **VOTED TO APPROVE** the Compliance Application of Charles Mallory for an overall sign plan subject to the following condition:

1. The sign package as outlined in the plans is approved. The Commission reserves judgment on the courtyard signage until such time as an actual design is available for review.

65 – 75 Station Street Motion was made by Mr. Soutar, seconded by Mr. D’Andrea and the members present unanimously **VOTED TO APPROVE** the Compliance Application of Sturm Ruger and Co., to reestablish office use subject to the following condition:

1. A bond shall be posted to secure site improvements.

Zoning Regulation Amendment Motion was made by Mr. Wagner, seconded by Mr. LeClerc and the members present unanimously **VOTED TO APPROVE** the application of the Town Plan and Zoning Commission to amend Section 2.12 (Flood Management) and Section 32.0 (Flood Protection) as follows:

2.12 Flood Management

(current language to be deleted [is bracketed], new language is in **bold**)

All property and structures located within [the 100 year flood area] **an area of special flood hazard** shall be subject to the provisions of Section 32.0 of the Zoning Regulations pertaining to Flood Plain Management requirements.

[The level of the 100 year flood shall be known as the base flood level as determined by the Federal Emergency Management Agency, dated October 6, 1998.

Flood Hazard Areas shall be those areas identified on the Flood Insurance Rate Map (FIRM) dated October 6, 1998, Town of Fairfield, prepared by the Federal Emergency Management Agency, as Zones A, AE and VE on file in the Office of the Town Clerk, as amended.

The Floodway shall be those areas identified on the Flood Insurance Rate Map (FIRM) dated October 6, 1998, Town of Fairfield, prepared by the Federal Emergency Management Agency as part of the final flood insurance study dated October 6, 1998, as amended.]

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Fairfield County, Connecticut dated June 18, 2010, and accompanying Flood Insurance Rate Maps (FIRM), dated June 18, 2010, and other supporting data applicable to the Town of Fairfield and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a Coastal High Hazard Area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIS and FIRM are on file in the Office of the Town Clerk.

SECTION 32.0 FLOOD PROTECTION

(current language to be deleted [is bracketed], new language is in **bold**)

32.0 General

Proposed uses, buildings, structures, in flood prone areas as delineated on the Flood Insurance Rate Map [and Flood Boundary and Flood Way Map] shall conform to the following standards:

- 32.1 In all special flood hazard areas, designated A, [and V] **AE and VE** Zones, the following provisions shall apply:
- a. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal Water Pollution Control Act and all other local statutes, regulations and ordinances. **Proposed development shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding.**
 - b. All proposed developments shall include within such proposals base flood elevation data.
 - c. Permits shall be required for all new construction, substantial improvements, including the placement of prefabricated buildings, and other development and shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, be constructed with materials resistant to flood damage, and be constructed by methods and practices that minimize flood damage.
 - d. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - e. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of the flood waters into the systems and discharges from the system into flood waters and on-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - f. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- g. **Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.**
- h. **If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, docks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.**
- i. **If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)**

32.2 In all special flood hazard areas designated as A Zones, the following shall additionally apply:

- a. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway date available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A have the lowest floor, including basement, elevated to or above the base flood level and all new construction and substantial improvements of non-residential structures have the lowest floor, including basement, elevated or flood proofed to or above the base flood level.

- b. For the purpose of the determination of applicable flood insurance risk premium rates, the applicant shall provide the elevation in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures and whether or not such structures contain a basement; obtain, if the structure has been flood proofed, the elevation, in relation to mean sea level, to which the structure was flood proofed, and a record of all such information shall be maintained with the Zoning Enforcement Officer.

Upon completion of the applicable portion of construction, the applicant shall provide the Zoning Enforcement Officer verification of the as-built lowest floor elevation and utility elevation or in the case of flood proofed buildings, the elevation to which the flood proofing is effective.

- c. In riverine situations, the applicant shall notify adjacent communities and the [State Coordinating Office] **Connecticut Department of Environmental Protection** prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Zoning Enforcement Officer and Federal [Flood Insurance Administrator]. **Emergency Management Agency**
- d. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- e. **Manufactured Homes and Manufactured Home Parks and Subdivisions are prohibited in all flood hazard areas, designated Zones A, AE and VE.**

32.3 In all special flood hazard areas designated as Zones [A1-30], **A and AE** the following additionally shall apply:

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
- b. All new construction and substantial improvements of non-residential structures, shall have the lowest floor, including basement, elevated to or above the base flood level, or, together with attendant utility and sanitary facilities, be designed so that below one foot above the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- c. Where flood proofing is utilized for a particular structure in accordance with paragraph 32.3b of this section, a Connecticut registered professional engineer or architect shall certify that the flood proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificate indicating the specific elevation, in relation to mean sea level, to which such structures are flood proofed shall be maintained with the Zoning Enforcement Officer.
- d. For all new construction and substantial improvement, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- e. Recreational vehicles placed on sites within Zones [A1-30, AH and AE or V1-30] **A, AE, VE** shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions) or (3) meet all the general standards of Section [32.3 or 32.5] **32.1** and the elevation and anchoring requirements of Section [32.1] **32.3 for A or AE Zones or 32.5 for VE Zone.**
- f. **Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering**

practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

- g. **Compensatory Storage.** The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

32.4 In the floodway as delineated on the [HUD Flood Boundary and Floodway Map] **Flood Insurance Rate Map**, any encroachments, including fill, new construction, substantial improvements and, other development that would result in any (0.00) feet increase in flood levels within the community during the occurrence of the base flood discharge shall be prohibited. **The provision of proof that there shall be no (0.00 feet) increase in flood discharge due to the proposed construction or encroachment shall be the responsibility of the applicant and shall be based on hydrologic and hydraulic studies, performed in accordance with standard engineering practice, and certification, with supporting technical data, by a Connecticut Registered Professional Engineer.**

- a. The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data are available from any other source (in response to the Town's request or otherwise), the Town shall designate regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the elevation more than one (1) foot at any point along the watercourse.

- b. In “A” zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevation more than one (1) foot any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- 32.5 In the coastal high hazard zones, designated as [V1-30] **VE** , the following provisions shall additionally apply:
- a. The applicant shall obtain the elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings or columns of all new and substantially improved structures, and whether or not such structures contain a basement. **A record of all such information shall be maintained with the Zoning Enforcement Officer.**
 - b. All new construction shall be located landward of the reach of mean high tide with the exception of accessory uses that include boat houses, landings, docks and piers.
 - c. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns, and securely anchored to such piles and columns so that the lowest structural member of the lowest floor, excluding piles or columns, is elevated to or above the base flood level. A registered professional engineer or architect shall certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, and the space beneath the lowest floor shall be free of obstruction, or, be constructed with breakaway walls intended to collapse under stress without jeopardizing structural support; said space shall not be used for human habitation.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect has certified that the designs proposed meet the following conditions:

Breakaway wall collapse shall result from a water load less than that would occur during the base flood; and

The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local standards. Such enclosed space shall be usable solely for parking of vehicles, building access, or storage.

- d. No use of fill for structural support of buildings shall be permitted.
- e. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

32.6 The applicant shall file with the commission a performance bond, in form and with surety acceptable to the commission, in an amount sufficient to insure proper performance of those elements of the proposed work which have a bearing on protection from flooding.

32.7 Variances

- a. Variances shall not be issued within any designated regulatory floodway if any increase will result in flood levels during the base flood discharge.
- b. The applicant for a variance shall be notified in writing over the signature of the Zoning Enforcement Officer that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates to the maximum in accordance with which such is below the base flood level and increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph c of this section.
- c. The Town shall maintain record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Administrator.

32.8 Definitions

- a. Administrator - means the Federal [Insurance Administrator], **Emergency Management Agency** to whom the Secretary has delegated the administration of the Program.
- b. Area of Special Flood Hazard - is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- c. Base Flood - means the flood having a one percent chance of being equaled or exceeded in [one] **any given** year as designated on the Flood Insurance Rate Map and measured in accordance with the [National Geodetic] **North American** Vertical Datum of [1929] **1988** - is expressed and measured on a vertical scale that corresponds to [13.45] **14.5** feet below Town of Fairfield datum.
- d. **Base Flood Elevation (BFE)** – means the elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
- e. Basement - any area of the building having its floor sub-grade (below ground) on all sides.
- f. Breakaway walls - means type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building.
- g. **Building** – means see the definition for “Structure”.
- h. Coastal High Hazard Area - means the area of **special flood hazard** subject to high velocity waters, including, but not limited to hurricane wave wash, or tsunamis. The area is designated on a FIRM as Zone [V1-30] **VE**.

- i. Development - means any man-made change to improved or unimproved real estate, including, but not limited to, [buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations including storage of equipment or materials] **to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.**

- j. [Flood Boundary and Floodway Map - means an official map of a community on which the Administrator has delineated boundaries of flood areas having special hazards as well as the regulatory floodway.]

Federal Emergency Management Agency (FEMA) – is the federal agency that administers the National Flood Insurance Program (NFIP).

- k. **Flood or Flooding – means a general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.**

- l. Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

- m. **Flood Insurance Study (FIS) – means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map (FIRM) and water surface elevation of the base flood.**

- n. Flood Plain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and flood plain management regulations.

- o. Flood proofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

- p. Floor - means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

- q. Floor (lowest) - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.

- r. Functionally Dependent Facility - means a facility which cannot be used for its intended purpose unless it is located in close proximity to water. **The term includes only** [such as a] docking **facilities** [or] port [facility] **facilities** necessary for the loading and unloading of cargo or passengers[.]; shipbuilding, **and** ship repair [,]. [or seafood processing facilities.] The term does not include **seafood processing facilities or** the long-term storage, manufacture, sales or service facilities.

- s. Historic Structure – means any structure that is: (a) **Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;** (b) **Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;** (c) **Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;** or (d) **Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.**

- t. Hydrodynamic Loads - means loads that are caused on building or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level which allow the free flow of flood water.
Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as the water flow around the obstruction.
- u. Hydrostatic Loads - means loads that are caused by water, either above or below the ground surface, free if confined, which is either stagnant or moves at slow velocities or up to 5' per second.
Hydrostatic pressures at any point are equal in all directions and always are perpendicular to the surface on which they are applied and are divided into the following types: Vertical Loads, Lateral Loads and Uplift.
- v. **Manufactured Home** – means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.
- w. **Manufactured Home Park or Subdivision** – means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.
- x. **Market Value** – means the market value of the structure shall be determined by the property’s tax assessment, minus land value; prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.
- y. Mean Sea Level - means the average height of the sea for all stages of the tide and is to be considered elevation zero (“O”) , [National Geodetic Vertical Datum of 1929] **North American Vertical Datum of 1988** - is expressed and measured on a vertical scale that corresponds to[13.45]**14.5** feet below Town of Fairfield datum.
- z. New Construction - Structures for which the “start of construction” commenced on or after the effective date of the initial firm, August 15, 1978, and includes any subsequent improvements to such structures.

- a.a. Pilings - means columnar support members which may be of any approved type capable of resisting all applied loads and shall, as far as practicable, be compact and free from unnecessary appendages which would trip or restrict free passage of debris during a flood.
- b.b. Regulatory Floodway - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- c.c. Recreational Vehicle - means a vehicle which is: (1) built on a single chassis (2) 40 square feet or less when measured at the largest horizontal projections (3) designed to be self-propelled or permanently towable by a light-duty truck and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be considered structures for the purpose of this ordinance.
- d.d. Riverine - means relating to, formed by or resembling a river, including tributaries, stream, brook, creek.
- e.e. **Sand Dunes – means naturally occurring accumulations of sand in ridges or mounds landward of the beach.**
- f.f. Start of Construction - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act) (P.L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of

a building, whether or not that alteration affects the external dimensions of the building.

- g.g. **Structure** – means a walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- h.h. **Substantial Damage** – means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- i.i. **Substantial Improvement** - means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. **The term shall include the cumulative cost of any repairs, reconstruction or improvement for which less than one year has transpired between issuance of a certificate of occupancy and the issuance of a subsequent permit.** The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- j.j. **Variance** – means a grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.
- k.k. **Violation** – Failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- 1.1. **Water Surface Elevation** – means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

32.9 Abrogation and Greater Restrictions

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

32.10 Warning and Disclaimer of Liability

The degree of flood protection required by this regulation is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply or guarantee that land outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. This regulation shall not create liability on the part of the Town of Fairfield or by any officer or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made there under. The Town of Fairfield, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of Fairfield.

323 Fairfield Beach Road Motion was made by Mr. Jacobs, seconded by Mr. D'Andrea and the members present unanimously **VOTED TO APPROVE** the Special Exception and Costal Site Plan Application of the Town of Fairfield pertaining to Phase II, Penfield pavilion reconstruction subject to the following condition:

1. A final landscaping plan shall be submitted.

1215 Post Road Motion was made by Mr. Kennelly, seconded by Mr. Soutar and the members present unanimously **VOTED TO APPROVE** the Special Permit Application of Brick Walk Associates, LLC pertaining to a 24' x 26' addition.

This meeting adjourned at 9:42 p.m.

Richard B. Jacobs
Secretary

Dolores Sansonetti
Clerk

“Draft subject to review, correction and approval by the Town Plan & Zoning Commission”.