

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Acting Chairman, City Planner, David Sulkis called to order the first meeting of the Planning and Zoning Board for the New Year. At the first meeting of the year he temporarily takes the Chairmanship so as to conduct the election of a new Chair.

He made an announcement that the 489 North Street application, would not be voted upon tonight as it needs a super majority vote of the members. The applicant asked that the vote take place when all ten Board members are present.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Daniel Rindos, Michael Casey, Edward Mead, Mark Bender, John Grant, Jeanne Cervin, Ben Gettinger, Kevin Liddy.

Staff: Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk.

C. ELECTION OF BOARD CHAIRMAN AND VICE CHAIRMAN

Acting Chair Sulkis: Take nominations for Board Chairman. If there is more than one nominee for Board Chairman he asked that each nominee say a few words as to why they would make the best chairman. Asked for nominations for Chair.

Mr. Liddy: Thought it would be in the best interest of the Board to hold off the election until there is a full board present. Two board members have yet to be appointed. With all the new members on board they may have opinions as to who they would like to see as chairman. He noted that some of the new members might want to run for chairman.

Mr. Sulkis: Asked if the Board would like to discuss this.

Mr. Rindos: What would be the legal implication of delaying the vote? Thought it was required at the first meeting.

Mr. Sulkis: There is no legal requirement that the vote take place tonight. By custom it always has. Also, in the latest amendments to the Green Book, it discusses this particular issue and sets the minimum number of members to vote at six.

Ms. Cervin: Thinks Mr. Liddy's idea is a good one. Thinks the Board has set a precedent trying to ensure that there are as many members present as possible. Does not know why this would not be done out of consideration of the whole new board. If in some way it handicapped an applicant that would be another issue. Agrees with what Mr. Liddy has suggested.

Mr. Mead: The Board had a subcommittee on the Green Book and they spent at least a few weeks on the election of the Chairman and Vice Chairman. One of the items was the number of members that have to be present to vote. The members who were on

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

the Planning and Zoning Board when this matter was voted upon, voted everything that is listed for the election. It says six members must be present to conduct a vote as a minimum. Thinks the Board should stick to what was changed in the Green Book.

Ms. Cervin: Thinks there are very unusual circumstances that have caused two members not to be here, through no fault of their own. Still thinks it's important to put this off for two weeks. This can be voted upon.

Mr. Sulkis: Asked the Board if they would like to vote on this or to delay the election until the new members that are going to be appointed next week take their seats?

Mr. Liddy: Made a motion to delay the vote for two weeks.

Mr. Gettinger: Second.

A vote was taken to delay the election until the full Board is seated, which should be by the next meeting.

In favor: Mr. Liddy, Ms. Cervin, Mr. Gettinger.

Against: Messrs. Rindos, Casey, Mead, Bender, Grant.

Mr. Sulkis: The motion fails. Nominations for Chair?

Mr. Mead: Nominated Mark Bender for Chairman of the Planning and Zoning Board.

Mr. Rindos: Seconded the nomination.

Mr. Sulkis: Any other nominations?

Mr. Gettinger: Nominated Jeanne Cervin.

Mr. Liddy: Second.

There were no further nominations for Chair.

The candidates gave a brief summation of why each thought he/she should be elected as Chair.

A vote was taken:

For Mr. Bender – Messrs. Rindos, Casey, Mead, Bender, Grant, Liddy.

For Ms. Cervin: Mr. Gettinger, Ms. Cervin.

Chairman Bender assumed the Chair's seat and thanked the Board.

The Chair took nominations for the Vice Chairman's position.

Mr. Casey: Nominated Ed Mead.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Rindos: Second.

Ms. Cervin: Nominated Kevin Liddy.

Mr. Gettinger: Second.

Each candidate gave a brief summation as to his qualifications for the position of Vice Chair.

A vote was taken:

For Mr. Mead: Messrs. Rindos, Casey, Mead, Bender, Grant
For Mr. Liddy: Ms. Cervin, Mr. Gettinger, Mr. Liddy

Mr. Mead was elected Vice Chair.

Chairman Bender: Stated the Board members could sit wherever they felt comfortable. Hopefully the "official" nameplates will be received by the next meeting.

PUBLIC HEARING CLOSE BY 1/10/2012; expires 3/15/2012

1. **44 CEDARHURST LANE (CHERRY BLOSSOM RIDGE) - (ZONE R-18)**
Petition of Thomas Collucci for approval of a three lot re-subdivision on Map 89, Block 832, Parcel 13, of which Thomas Collucci is the owner.

Thomas Lynch, Esq., Lynch Trembecki and Boynton, 63 Cherry Street, Milford, representing Thomas Collucci, the property owner, d/b/a 44 Cedarhurst LLC. Also present is Ronald Wassmer, of Connecticut Civil Group, the engineers of the development plan.

Mr. Lynch presented the history of the subject property. There was a prior subdivision application for six building lots that was approved in 2008. Some of the concerns raised by the neighbors and staff at that time have been addressed and hopefully allayed by the plans of the present application.

The prior subdivision application was known as "Tiffany Lane LLC". Jeff Rutkowski and the other LLC partners purchased the front portion of the property that was owned by the Estate of Alice Comstock, located at 44 Cedarhurst Lane, along with a portion of the rear property behind 32 Cedarhurst, but the main portion of the property was that owned by Mrs. Comstock. 44 Cedarhurst Lane will be razed and will be made a portion of Lot #1 in the new subdivision.

In 2007 Westcott and Mapes brought the plan before the Board and in November 2007, this subdivision plan was approved. There had been a great deal of concern raised about sight lines and a waiver that had been sought for the radius and curb cut for the street known as Tiffany Lane to come out onto Cedarhurst Lane.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Lynch noted in the 50's and 60's, Cedarhurst Lane was a rural street. Now with the development of the Post Road that has gone on over the years, it is a feeder street for residents of North Milford to come down to the Connecticut Post Mall to the Milford

Market Place and other developments on Route 1. Rightfully, there was a great concern that an improved city street meeting all City standards was going to come out onto Cedarhurst Lane right on a curve in front of David and Stephanie Ellison's house, right across from the intersection of Cedar Hill Road and situated some 250 feet from the intersection with Route One. Legitimate concerns.

Those concerns were addressed through the denial of the Board of certain waivers that were requested for modifying the radius of the curb cut and also the deeding from the Ellisons to the developer at that time of a sight line easement, across the front of their property at 66 Cedarhurst Lane. This was the final plan that was approved in November 2007. It met unanimous approval of the Board. It for the subdivision of this property into six building lots.

What happened after that? The financial crisis hit. Mr. Rutkowski and his partners lost the property to foreclosure. The subdivision plan was not filed on the land records; bonds were not posted. The plan lapsed and the property stayed in the state it has been in for the last three years.

The plan being presented tonight is to divide the property into three lots. All three lots would contain four bedroom colonials. The front lot meets the R-18 standards in terms of square footage, setbacks, lot width and all the other zoning requirements, as do the two lots to the rear. Under Sec. 2.5.5 of the zoning regulations, these are rear lots. They have to have a minimum of one acre in square footage to meet the standards of Section 2.5.5. The access for the driveways coming out would be through fee simple frontage on an accepted city street, which is another requirement of the regulations under Section 2.5.5.

Coming to the Board tonight with an alternative. The first sheet shows a plan with two driveways coming out onto Cedarhurst Lane. The second sheet, which is an alternative, is to have one driveway where the two lots to the rear share access to the street. There would be the deeded frontage as required by Section 2.5.5, but the two rear lots would share the driveway going across further to the south of the property onto the frontage of Lot #2.

All the City department reviews have no problem with the plan. The City Police Department Traffic Division made reference to the issue of the sight line from the 2007 proposal. Right now with the sight line easement, with the configuration of the trees as they exist, there is approximately 260 feet of sight line from the furthest north driveway looking back along the curve of Cedarhurst Lane. The Police memo makes reference to the fact that there should be some guarantee that this would remain in its present state to achieve Police Department approval. That is the case, as is shown on the map and warranty deed that transfers title to 44 Cedarhurst LLC, those sight line easements were granted and they were recorded in the Milford Land Records back in 2008. The concern that the Police Department had in terms of maintaining the sight line across the

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

front of the Ellison's property is preserved by a permanent easement that was deeded back in 2008. Those were the concerns that the Board had.

He is presently before the Board with a three lot subdivision rather than a six lot subdivision and all the arguments come to play that this is more than a reasonable request because the Board already approved a six lot subdivision. The applicant does not want to spend the money to put an approved city street in here and based upon the price that he paid for the property, he feels that this puts the property to its highest and best use and infringes less on the neighborhood, especially in terms of traffic.

Ronald Wassmer, PE and Licensed Land Surveyor, 158 Research Drive, Milford, representing the applicant for the engineering aspect of the project. Outlined the engineering via the plans displayed. Lots #2 and 3 are rear lots. Lot #2 is an acre and Lot #3 is 1.78 acres. Both rear lots have a 25 foot access to Cedarhurst Lane that would be owned in fee. It is not a shared ownership. Each individual 25-foot ownership. The site is a rolling topography, rises approximately 20 feet up from Cedarhurst Lane. Worked with topography to minimize excavation on the property. Worked on this aspect which is in contrast to the six-lot subdivision which had to construct retaining walls and required a massive amount of grading in order to provide six home sites.

Sheet 10 is the Landscaping Plan that shows the existing trees on the site; the trees that will remain and those that will be removed. The site is heavily wooded with mature trees, some as large as 40 inches. The trees that will be removed have a large black X on them. Those that will remain are shown in a larger scale for the purpose of clarity.

Sheet 11 is the Sight Line Plan. This plan was prepared in accordance with the Subdivision Regulations. In particular there is a regulation regarding sight line for driveways. The two driveways are not on a public street. The sight line regulation for a driveway is 150 feet. This has been demonstrated from the northern most driveway, without any encumbrances to the neighbors' property. There is a sight line easement on record that was granted when the previous application had a public road accessing the six lots.

As requested by Staff, a separate sheet labeled "The Driveway Plan", has been provided just to clarify for viewing purposes what the driveway configurations are to the three lots. Driveway #1 is off Cedarhurst Lane. Driveway to #2 is on its fee simple access way to Lot #2 and the driveway for Lot #3 is on its fee access to Lot #3. Turnarounds are shown on all three driveways so people can exit their property forward onto Cedarhurst Lane. There is also a widened area so that if someone from Lot #2 is trying to leave and someone from Lot #3 is trying to come in, there is an area where they can pass each other.

Sidewalks have been indicated along Cedarhurst Lane on the Plan as required by the Regulations. However, as stated on the plan the Applicant is requesting a waiver on the sidewalks. There are no sidewalks to the north or the south or on the opposite side of

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Cedarhurst Lane. So 150-179 feet of sidewalk would be constructed that would dead end at the end of this site. From the topography at #32 Lane, it is a steeper slope that comes down to the edge of the pavement. If there were sidewalks coming up from the Post Road to this property, it would be a difficult argument to say that sidewalks in this area were not necessary, but the fact that there are no sidewalks beyond this property in either direction, is not a benefit to the City to install sidewalks at this location.

Mr. Wassmer noted that there is a philosophy that eventually it will happen, but in his working experience it does not seem practical that this happens. If the City wants to see sidewalks on Cedarhurst Lane, it has to be undertaken as a project to construct sidewalks, whether it be through a local town or to request aid from the State, but to do it in a piecemeal, 150 foot at a time, does not seem to happen. As an engineer he supports the request for a waiver of no sidewalks.

Chairman Bender: Asked Staff for comments.

Mr. Sulkis: Messrs. Lynch and Wassmer did a fine job explaining what the proposed subdivision is. Asked Mr. Lynch about Sgt. Sharoh's memorandum wherein he stated "a line of sight easement was obtained from the property immediately to the north. In the new application this easement does not exist". Asked if this was a matter of the police not understanding ...

Mr. Lynch: Yes. He did not think they were aware that the sight line easement --- believes he was referencing the prior file and as a result of the denial of the waivers at that point, the developer negotiated with the next door neighbors' sight line easements. They were then recorded. He did not think that Sgt. Sharoh was aware of that.

Mr. Liddy: Referred to Sgt. Sharoh's memorandum mentioning seasonal conditions in the spring and summer significantly reducing the line of sight. Sight line could go down from 250 feet to 100 feet. How will the line of sight be properly maintained?

Mr. Lynch: That is the purpose of the sight line easement. There was language in that document that provided for trees to be removed. He believed some form of consideration had been paid to the neighbors to have some of the trees removed. He pointed out that Sgt. Sharoh was speaking of 250 feet as a sight line, which the prior application had an approved city street. Not talking about driveways. As Ron Wassmer mentioned, the zoning regulations have a much lower standard for driveways. That is one of the reasons this plan has been reconfigured to meet those standards.

Ms. Cervin: Asked about open space payment.

Ms. Lynch: Originally there had been discussions with Mr. Sulkis to have a portion of Lot #3 designated as open space. Did not quite have the minimum of one acre required for the rear lot. Also, Mr. Sulkis felt that that land was not acceptable as open space, as it had no contiguous access from other city properties. Therefore, donation to the open space fund will be required.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Ms. Cervin: Knows there is a tremendous amount of ledge. Believes Mr. Wassmer said the driveways would be impermeable.

Mr. Wassmer: Proposing to pave the driveways.

Ms. Cervin: Has consideration been given to making the driveways permeable?

Mr. Wassmer: Stated it was his opinion that a driveway should be paved. Overflow parking could be impervious. From his experience, the runoff from a gravel driveway is very close to the runoff of a paved driveway. A paved driveway is much easier to maintain; much less risk for sedimentation out onto the city street. That is the reason paved driveways are proposed.

Chairman Bender: Asked if Mr. Wassmer was saying gravel has the same runoff as asphalt?

Mr. Wassmer: It is slightly less, but not significantly less.

Mr. Liddy: Did not understand the physics as being that close.

Mr. Wassmer: The runoff coefficient for a compacted gravel driveway is 95. The runoff coefficient for a paved driveway is 98. The runoff coefficient for woods is 40. The runoff coefficient for grass is 61.

Chairman Bender: Thought there was a great distance of asphalt which would add up.

Mr. Rindos: Asked if there was a study done of the drainage. 32 Cedarhurst is on top of ledge. There will be water running down.

Mr. Wassmer: A report has been prepared and submitted with the application that any changes to the property that are conducted by the applicant would address the increase in drainage. There will be underground galleys. Soil percolation tests were done. Deep test pits to find the best locations for the underground galleys. Directed the roof drainage and the driveway drainage to those galleys.

Ms. Cervin: Received only one memorandum from the Police Traffic Division. Asked if a followup was needed.

Mr. Sulkis: There were two reports. The most recent was the Addendum Report, which ends, "If the applicant can ensure that these distances remain the same throughout the year and no additional plantings fall within this zone, approval of the application may be considered." As long as that easement area is kept clear and you can see year round, they have no issue with the application.

Tom Collucci, 44 Cedarhurst LLC, 305 West Main Street, Milford. Has been before the Board before where impervious driveways were discussed. Wanted to stress there will be no runoff. There will be galleys, underground retention and picked slopes so that the water in the driveways will be kept on the property.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Bender: Addressed the audience to tell them the procedure for speaking at the Public Hearing. Asked if there was anyone to speak in favor of the application. (No response). Anyone to speak in opposition to the application.

Diane Lord, Esq., Willinger Willinger & Bucci, 855 Main Street, Bridgeport., representing Stephanie and David Ellison, the property owners at 66 Cedarhurst Lane, which is west of the proposed subdivision.

In opposition to the application for three reasons: A safety issue with regard to the driveways; the sight lines and there are violations of the Subdivision Regulations and Zoning Regulations. Much ado was just made of the sight line easement that resulted from the prior six lot subdivision. There is a sight line easement, but that easement was granted in conjunction with a performance agreement to the prior developer. Her clients gave up the easement property and in exchange they received an agreement from the prior developer. [A copy of the easement was distributed to the Board and date stamped into the record.]

There was an agreement that in exchange for the sight line easement the developer was going to provide a new driveway for her clients. She pointed out the highlighted portion of the driveway. Absent the sight line easement, the Plan has a lot of problems with the sight line if they have the five driveways, or four, if they have the shared driveway.

She stated Mr. Collucci would like to retain the sight line easement but forego the performance agreement. Her clients do not find this acceptable. As a result a lawsuit has been filed with respect to that. Without that sight line easement there are some serious problems. The traffic report that Mr. Sulkis referred to earlier stated that as long as that can be maintained you can approve it, but if you cannot maintain it, you should not approve it. At this time there is a dispute in that respect. Therefore, the project falls short of the Board's requirements.

Also with respect to the Regulations, there are two rear lots and the regulations permit only one rear lot. She did not think any variances were granted with respect to that.

With regard to the Sgt. Sharoh's police report, they conducted a traffic study which was conducted by Manny Silver of Rose Tiso & Company. [Distributed the traffic study report to the Board, which was date stamped into the record.] She noted the significant items she highlighted for the Board's review. Five or four driveways create too many potential cars leaving in a very short distance. Did a study with respect to the sight distances. Used the CT DOT standards, which the Zoning Regulations reference. The Police Department uses different standards. The sight line distances standards are attached to the report on the last page. She outlined the various sight distances at different rates of speed down the street. There is a serious traffic issue with the sight lines.

Cedarhurst Lane is no longer a country road. It is heavily trafficked and is used to get to other areas, i.e. Orange Avenue. Trucks go on that road. The stop sign is not often

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

obeyed. A radar trailer was placed there and left until December. [A violations report was date stamped into the record].

Section 1.2 of the Subdivision Regulations say that the land should be divided only if it is without danger to health and safety. Also, Section 3.8.6 mentions minimum sight distances, needing to meet the DOT standards. Section 5.1.1.11.3 states you can have one rear lot.

Unless the Board can condition the approval on not only the easement but the Performance Agreement, her clients have very serious and strong objections to it.

Chairman Bender: Anyone else to speak against 44 Cedarhurst?

Andrew King, 32 Cedarhurst Lane. Had a question for the builder. The original plan that did not go through contained a 10-foot conservation area between his premises at 32 Cedarhurst and 44 Cedarhurst, where no trees would be cut down and any gaps in trees would be filled in by the builder. Asked if that was still going to happen.

Also stated there was a man living in a tent at the back of the property, near the end of the property close to Bed Bath & Beyond. He had called the police about it, but because he was not the property owner the police could not do anything about it. Asked if the builder could take care of this situation.

Rebuttal:

Mr. Lynch: A deal that was good in 2007 and 2008 does not look as good in 2012. Says that because the main opposition by Mr. and Mrs. Ellison, and as alluded to by their attorney, is that the prior developer agreed to do certain improvements to their property. The Performance Agreement makes reference to the fact that "if, in consideration..." Basically, if you do something for me I will do something for you.

The Minutes of the Public Hearing held in 2007 for the prior application do not indicate any opposition by the Ellisons. That is because the prior developer agreed to do certain things to make them happy if they did not oppose the subdivision request. That happens all the time. No one is disputing that. It is a matter of record. It is a document that was filed on the land records and is also a matter that is pending in court. The Ellisons' opposition arises from the fact that the prior developer agreed to do a litany of things to their property: Redo their driveway; rebuild their culvert; install Belgian block aprons to the end of their driveway; relocate the shared driveway that the rear property that the rear property owner, Mr. Huffcutt has, which is in existence right now. If you look at the Ellison's property at 66 Cedarhurst, they have a shared driveway with the person who is in the rear lot behind them. The prior developer agreed to eliminate that driveway and have the Huffcutt's driveway cut through an easement onto Tiffany Lane. So it was all wrapped up very nicely and everybody was happy. Then 2008 turned to 2009. The prior developer went belly up.

The matter is now in court arguing as to what obligations Mr. Collucci has as it relates to that performance agreement. It has nothing at all to do with the matter at hand tonight.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

The Applicant is before the Board with a subdivision request for which all the standards of the zoning regulations have been met. Counsel made glaring errors in her presentation to the Board. She spoke of standards for intersections. There is no intersection involved in these plans. There is a driveway coming out onto an accepted city street. That is not an intersection.

Reference was also made to the sight line regulations in the Subdivision Regulations. Making reference to accepted city street sight lines, not driveways. As Mr. Wassmer referenced, there is at least a 150 foot sight line to the north of this property that more than satisfies the zoning regulations as it relates to sight lines for driveways. The prior application entailed an accepted city street. He noted the minutes from the previous subdivision application and the comments made by Ms. Cervin, talking about the width of the road; the closeness of the road to the Ellison's curve. How could people see coming out on a six-lot subdivision through a street curb cut and be able to make a safe turn. That is not what has been brought to the Board tonight. Tonight's subdivision application is half of what the prior plan called for. It has a shared driveway. He thinks the Board should look at the shared driveway for lots two and three and see that that would really have an impact in terms of minimizing any sort of traffic coming from one single family on those lots coming out versus the six lots that were there before.

Asked the Board to read through the document he distributed. The Ellisons are mad because they are not getting what they wanted. A court judge will make the decision as to whether Mr. Collucci has to live up to that performance agreement or not. It has nothing to do with the Board.

Chairman Bender: Allowed Mr. Collucci to respond to Mr. King's questions.

Mr. Collucci: Told Mr. King that there was a ten foot buffer on the original plan. That was with an 18,000 SF lot. He is taking that lot away. He is having an acre lot so his houses are going to be further away from his property than the existing house would be.

The person living on a tent on the property was brought to his attention by a police officer on Friday. He visited the site. No Trespassing signs were posted. The police man called and said he spoke with the man last week and the man never returned. Mr. Collucci took the tent down on Monday. The debris left over will be cleaned up.

Opposition Rebuttal:

Attorney Lord: Counsel is relying on an easement that was granted in exchange for this performance agreement. The fact that the Ellisons did not object before was because instead of five driveways there, there was going to be one road and an intersection with a driveway onto a street requires just as much sight line distance as if it were an intersection with a street onto a street. You still have to be able to see to make a safe turn to leave going left or right.

Mr. King: As far as the conservation area. Not concerned about the back. He understands they will be big lots and he most likely will not see the house. More

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

concerned with facing his house on the right side between his house and the house at 44 Cedarhurst.

Mr. Collucci: There are a lot of mature oak and birch trees on the property. Those trees will remain where he is putting the house. He will have to cut some in the front of the house in order to get utilities in and there will be a few more where the driveways are going to be on the site. Where his house will be he will leave as much vegetation and mature trees as he can.

With regard to the Ellisons, when he heard about this issue he met with them. He did not think he was responsible for what had taken place before. They talked and disagreed. Since that time he offered them money and to do most of what they are asking for. He said there is a brook that runs through their property and a paved driveway cannot be put there. He offered to do the Belgian block; stone his driveway and offered to fix the culvert. The Ellisons said no to everything. They had a price quote of \$50,000. That is the last he heard of this.

Mr. Liddy: The opposition attorney mentioned two rear lots are illegal. That was not addressed by Mr. Lynch.

Mr. Sulkis: Referred to Section 2.5.5 Lot Access and Rear Lots. "No zoning permit or building permit shall be issued for any building unless the lot upon which such building is to be erected fronts on a municipally acceptable street on an accepted public street or on a street in an approved subdivision... such rear lot shall have 150 foot minimum lot width exclusive of access ways and shall be generally rectangular in shape. The required lot area shall not include the area of private means of access. This provision shall not be deemed to prevent the issuance ... "

Mr. Sulkis realized that is the old language. He will double check the new language, but it is the Board's call. It does not say one lot. He can see how someone questioning this could say that it would be a rear lot, because a rear lot in theory would be behind a front lot. So in this case you have one lot behind another lot, so that front lot is not the same, but that will be the Board's call. The regulations are not clear about that.

Vice Chairman Mead: The applicant is proposing two separate plans for the driveway. Two separate driveways going to each rear lot and one combined driveway going to both lots. Does the Board choose which plan it wants, or should it be presented by the applicant and the Board could review it.

Mr. Sulkis: The Board can pick and choose. The separate driveway situation is what the regulations call for and what they are asking for is permission to do a shared driveway but keeping those fee simple accessways. There are advantages and disadvantages to both ways. The first, if they are kept separate, you do not have any neighbor disputes. Everyone has their own driveway. With a shared driveway situation, from an environmental standpoint you have less pavement, so that is a plus. There would be an agreement between the property owners that would be put on the land

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

records to spell out the responsibilities of each. That does not mean a dispute will not arise in the future. The advantage of both properties having the required access to the street is that even if there is one driveway in the future, if there is a dispute, someone can put in another driveway and end the dispute. Again, it is the Board's call. From an environmental standpoint, having less pavement, being able to preserve the matured trees is usually viewed as a plus. This type of driveway arrangement has been done in the past. It is not done frequently, but it is not unique.

Chairman Bender: The Board has received a lot of new information. Would like more time to examine the information. Would like to keep the public hearing open.

Mr. Sulkis: Noted the applicant would have to grant the Board an extension of time to close the hearing.

Ms. Cervin: Stated the public hearing would have to be kept open for specific reasons. She is not clear about the differing traffic reports. Asked Mr. Sulkis if the Board should go through the process of getting additional traffic information from other sources.

Mr. Sulkis: Did not know at whose expense a third opinion could be obtained from. He said he could do some fact checking in terms of what the regulations say and do not say. It is rare that the Board has a nicely documented conflict.

Mr. Liddy: Concerned that this matter is in court and disagrees with Attorney Lynch that it has no bearing on this application, in that the judge may rule one way and it may affect this property's development. Thought it would be a good idea to seek the City Attorney's opinion, or wait until this case is determined by the judge and see how it will affect this proposal versus making a decision and having the judge come back and say they do not care what Planning and Zoning has determined.

Chairman Bender: Suggested giving both traffic reports to the Police Department and ask them to give their opinion, which would give the Board added information.

Mr. Sulkis: Said this could be done but it would be going to a non-traffic engineer.

Chairman Bender: To Mr. Liddy's point, past experience has shown that the courts believe what the Police Department says. That is all the Board can go by.

Attorney Lynch was asked if he would be willing to extend the time for the public hearing to close.

Mr. Lynch: For limited purposes.

Mr. Bender: This would be specific to bring the two different traffic reports to the Police Department and to get an opinion from the City Attorney's office on the legalities of what is going on in the court and how it affects this application.

Mr. Lynch: Agreed to extend the close of the public hearing to allow the two specific purposes noted.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Bender: The public hearing will be kept open to the next meeting date?

Mr. Sulkis: If the answers to the two questions are not received by the next meeting ...

Mr. Lynch: He would grant a further extension. He said that in Sgt. Sharoh's report he indicates as long as the developer can maintain this sight line ... that is what the easement is. He does not think Sgt. Sharoh was aware that the easement was recorded, which arose after the last application.

Chairman Bender: The public hearing will be kept open for those two items, with the caveat that if the Board does not have the responses in time, there will be another extension.

Mr. Lynch agreed.

Mr. Sulkis: Asked Mr. Lynch to provide an email to confirm this.

D. PUBLIC HEARINGS CLOSED 12/6/2011; expires 2/9/2012

2. **1200 BOSTON POST ROAD (ZONES CDD-5 & R-18)** – Petition of John Zyrllis, Jr. for Special Exception, Special Permit and Site Plan Review approvals to construct a 10,000 SF one-story retail building on Map 89 and a portion of Map 78, Block 832, Parcel 10, of which 217 State Milford LLC is the owner.

Chairman Bender: This is a Special Exception and requires a two-thirds vote.

Mr. Sulkis: It requires seven board members. The Board can decide whether to vote on this or hold off until there is a full board.

Chairman Bender: Suggested waiting until the two additional members are present in order to vote on this application.

Mr. Sulkis: The members who are new or were not sitting when the 1200 Boston Post Road application and 489 North Street should view the DVD of the meeting in order to participate in the vote.

Mr. Liddy: Made a motion to table discussion of 1200 Boston Post Road to the next meeting.

Ms. Cervin: Second.

All members voted in favor of tabling this item.

3. **306 HIGH STREET (ZONE R-12.5)** – Petition of George Adams, III, Esq., for approval of a two-lot subdivision on Map 65, Block 310, Parcel 7, of which Donna Kustra is the owner.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Sulkis: This application is for a simple two lot subdivision and requires a majority vote of the members present.

Ms. Cervin: This is very straightforward. The ZBA granted a variance and it seems to comply with the Board's regulations.

Ms. Cervin made a motion to approve the petition of George Adams, III, Esq., for approval of a two-lot subdivision on Map 65, Block 310, Parcel 7, of which Donna Kustra is the owner.

Mr. Mead: Second.

All members voted in favor of approving the motion. The motion passed.

4. **489 NORTH STREET (PLATT RESERVE) - (ZONE R-10)** - Petition of George Adams, III, Esq., for approval of a two-lot subdivision on Map 87, Block 801, Parcel 2, of which Arnold Peck is the owner.

Chairman Bender: Discussion and vote postponed to the next meeting.

E. NEW BUSINESS

5. **89 POND POINT AVENUE – REQUEST FOR BOND RETURN** – Request for partial bond reduction by Two-Ninety Six LLC, and approved by Bruce C. Kolwicz, Public Works Director, in the amount \$15,070.00.

Ms. Cervin: Explained this is pro forma. When the Board receives the approval from Bruce Kolwicz, the Board most often approves the bond return. Made a motion to approve the partial bond reduction in the amount of \$15,070.00.

Mr. Gettinger: Second.

All members voted in favor of approving the partial subdivision bond.

F. PLAN OF CONSERVATION AND DEVELOPMENT

Mr. Sulkis: He is in the process of putting together the new schedule. The schedule has fallen behind for several reasons; among which are Hurricane Irene and the work load on the office. The consultant has fallen behind. Yale is on break and he could not reach the consultant for an update. Will be providing an updated time line in the near future as to what he expects to occur. Believes the whole process will be completed by 2012.

Chairman Bender: Asked Mr. Sulkis to do a short presentation for the new members so they could understand what the POCD is about and what the Board is doing.

Mr. Sulkis: Stated he gave the new board members copies of the present Plan of Conservation and Development to read when he met with them. In short, the Plan is

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

the aspiration of the community as to how it sees itself over the next ten year period. The Plan is reviewed every ten years. From that the regulations are crafted.

Chairman Bender: Noted when this project was first brought to the Board and discussed, they thought there was time and the time line was mapped out, but that is quickly getting crunched and he is concerned that this get back on track.

Mr. Liddy: Pointed out that it had been brought up many times that if the new Plan is not approved on time it can cause the City to lose grant money from the state.

Mr. Sulkis: The Plan will be ready in time.

Ms. Cervin: Asked what particular areas are going to be targeted, if they have been decided, and how many public hearings would be held?

Mr. Sulkis: The consultant was hired to do several things: To look at downtown and specifically, how to better utilize the Fowler Field area. He will look at the Cherry Street corridor between the intersection of I-95 and Route 1 and downtown, because that is the gateway to downtown. If you look at that area now, you don't know what it is. One would think it is part of the Post Road.

The consultant will also be looking at the Walnut Beach area in terms of the connectivity between that area and the boardwalk and a better integration of events that are going on down there, as well as looking at the entire shoreline with an eye toward addressing concerns that this Board has raised previously about shoreline issues, in terms of height and density and whether or not there is anything that can be done with that.

Ms. Cervin: There is a lot of work and effort being done by the Open Space Committee to work on the Plan of Conservation and Development and what they would like to see changed. Asked if that would be included under the consultants or would these areas be outside the consultants purview?

Ms. Harrigan: She has met with the Mayor's Open Space Advisory Committee. In the past with the last Plan the Mayor's Open Space Advisory Committee had a very significant role in crafting the portions related to the Plan that had to do with conservation and open space.

This time around they have been asked to look at the existing plan. Over the past ten years the City has made successful open space acquisitions. In discussing the goals of the OSAC for the new Plan, a big issue has been maintaining those open space properties, especially the recreation spaces because they are actively used and maintained. With regard to the passive recreation spaces in the City, because there is no active "oversight", they are used in a more passive nature. Some of the very special parcels are being degraded because they don't have the same type of management. Asked the OSAC if there are new parcels that can be identified that would be key acquisition targets in the future. As it has been stated in the past, the Plan of

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Conservation and Development is a grant guidance document for a lot of agencies and the Plan must be sited when there is interest in preserving a piece of property. An example from the last Plan is the Solomon parcel. The City received a significant grant from the State to acquire that property. The OSAC has to do an assessment for that. There are key parcels that are in place as open space and it has been expressed a desire for better management strategy. Also talked about better linking some of the open space set asides that are both in private, but deed restricted ownership. Some of the City's public parcels; some of the State parcels to create the green necklace. How do you make those small connections and what are the priority parcels that can be identified to help make those really great circular passive recreation opportunities.

G. LIAISON REPORTS

Chairman Bender: Mr. Mead has asked to be the Police Commission liaison.

Asked the members to notify him if they wish to be the liaison for various City commissions.

Mr. Liddy: Asked the chair to list the liaison commissions for the sake of the new members.

Chairman Bender: Noted the Green Book authorizes him only to appoint a liaison to the Board of Aldermen. Wetland, Police, Aldermen, Sewer, have been commissions to which P & Z members have sat in as liaisons.

Ms. Cervin: Previously the liaisons have been the weak link. Recalls Mr. Sulkis had issues as to whether the Board could get into legal trouble by hearing certain applications ahead of time before they come before the Planning and Zoning Board. Somewhat of an ambiguous relationship. Perhaps the role of liaison should be further discussed.

Chairman Bender: Asked if there were other boards aside from Zoning Board of Appeals where there could be that type of situation.

Ms. Cervin: Does not recall the Board having a liaison to the ZBA.

Mr. Sulkis: Sometimes an application may go before some other board and there is a concern that a P & Z member listening to that application may be influenced by information before it comes to the Planning and Zoning Board. He did not see a history of such a situation, because by the time an application goes before another commission it has become public knowledge.

H. APPROVAL OF MINUTES – (12/6/2011)

Mr. Liddy: Made a motion to approve the minutes of December 6, 2011.

Ms. Cervin: Second.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

All members voted in favor of approving the minutes as recorded.

I. CHAIR'S REPORT

Asked that the Board members notify the office if they cannot attend a meeting, even at the last minute.

Ms. Cervin: Went through old paperwork. Came across a letter that John Ludtke wrote when he was Chairman of the Planning and Zoning Board, that was meant to go in the newspaper. She circulated a copy of the letter wherein it discusses why the Board members should not read information sent to them by the public after a public hearing on an application has been closed.

Mr. Sulkis: Noted that after the close of the public hearing on 489 North Street, the Board members received correspondence from someone who was not at the meeting. He said the Board could not do anything with regard to that letter or any new information contained therein because it arrived after the close of the public hearing. This is by statute. One of the reasons for this is that the applicant has no way of responding to the information contained in the letter that was sent. The Board should disregard and preferably not read any of the information sent to them after the public hearing has been closed. It cannot be part of the decision making process by the Board.

J. STAFF REPORT

Mr. Sulkis: Welcomed the new members to the Board. The Green Book will be distributed to the new members at the next meeting.

Mr. Liddy: Asked about the update of the Downs house.

Mr. Sulkis: The 8-24 request by Mayor Richetelli has been put on hold by Mayor Blake, as he would like to review what that request fully entails.

Chairman Bender to the new Board members: This will all make sense soon. Do not hesitate to ask questions of the experienced board members.

Mr. Liddy: Motion to adjourn.

Mr. Casey: Second.

All members voted in favor of adjourning the meeting at 9:16 p.m. The next meeting will be held on January 17, 2012.

Phyllis Leggett

Phyllis Leggett, Board Clerk

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 3, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**