

**MINUTES FOR THE REGULAR MEETING  
OF THE PLANNING & ZONING BOARD  
HELD TUESDAY, JANUARY 5, 2010; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Acting Chair David Sulkis, Executive Secretary, called to order the January 5, 2010 meeting of the Planning and Zoning Board.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**MEMBERS PRESENT:** Edward Mead; Mark Bender; Janet Golden; KathyLynn Patterson; Kim Rose; Kevin Liddy; Susan Shaw; Gregory Vetter; Victor Ferrante; Robert Dickman.

**ALSO PRESENT:** Cynthia Anger, Assistant City Attorney

**STAFF:** David Sulkis, City Planner; Phyllis Leggett, Board Clerk.

**C. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN**

**Acting Chair Sulkis:** First order of business is the election of a chairman and vice chairman. Procedure is to ask the board members for nominations. Every board member then has a vote. The person who receives the majority of votes becomes chairman. At that point, the chairman conducts the vote for the vice-chairman.

Asked for nominations for Chairman of the Board.

**Mr. Vetter:** Nominated Mark Bender for chair.

**Mr. Dickman:** Second.

**Ms. Rose:** Nominated Kevin Liddy for chairman. She has had the pleasure of working with Mr. Liddy for the past two years. Believes he would make an excellent chairperson for the Board. He has served 12 years on the Planning and Zoning Board and had served for one year as vice-chair, and has the ability to work with a variety of people.

**Mr. Ferrante:** Second.

**Mr. Sulkis:** Any other nominations?

**Mrs. Golden:** Nominated Susan Shaw. She has served on the Board for two years and would make a great chairperson.

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**Mrs. Patterson:** Second.

**Mr. Sulkis:** Any other nominations for Chairman of the Board? Hearing none, declared this portion of the nomination process closed. Will take a vote at this time in order of the nominations:

All those in favor of Mr. Bender for Chairman of the Board, raise hands.

Four votes for Mr. Bender (Bender, Dickman, Vetter, Mead)

All those in favor of Mr. Liddy for Chairman, raise hands.

One vote for Mr. Liddy (Liddy).

All those in favor of Ms. Shaw for Chairman of the Board, raise hands.

Five votes for Ms. Shaw. (Patterson, Golden, Rose, Shaw, Ferrante)

With five votes, Ms. Shaw is elected Chair of the Planning and Zoning Board. Congratulations.

(Ms. Shaw assumed the Chair's seat)

**Mme. Chair:** Thanked Mr. Sulkis and the Board members. Entertained motions for the Vice-Chair position.

**Mrs. Golden:** Nominated Kevin Liddy.

**Mr. Ferrante:** Second.

**Mme. Chair:** Any other nominations for Vice-Chair?

A vote was taken. Nine members voted in favor of Mr. Liddy. Mr. Bender did not raise his hand in favor. Mr. Liddy was elected Vice Chairman of the Board.

(Mr. Liddy assumed the seat to the right of the Chair)

**Mme. Chair:** Congratulated Mr. Liddy and noted he has been on the Planning and Zoning Board for twelve years and has served as Vice-Chair in the past and Parliamentarian for the Board in the past year. He has also served on the Inland Wetlands Commission.

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**Ms. Rose:** Asked to take a moment to thank Jeanne Cervin, the Board's Chair for the past two years. Stated she had the honor of serving with Jeanne as her vice-chair. Jeanne is incredibly dedicated to the City of Milford. She served on the Planning and Zoning Board for eight years. She has so much knowledge and did a fine job of keeping the Board together and focused on what is really important, which is a land-use board. Although politics plays an important part in getting here, the Board's best interest is serving the City of Milford. Thanked Ms. Cervin and stated it was a pleasure to work with someone so professional and she will be missed.

**Mr. Liddy:** Asked to second those comments. Noted that the Republican Party cross-endorsed Jeanne Cervin because of her professionalism, which shows that everyone can work together across party lines.

**Mr. Ferrante:** Asked to take the opportunity to welcome the two new members to the Board.

**Mme. Chair:** Stated she wanted to do that as well. She welcomed both new members, Rob Dickman and Ed Mead.

**D. 8-24 APPROVAL – PROPOSED ABANDONMENT**

Request by Mayor James Richetelli for Section 8-24 approval under Connecticut General Statutes for the abandonment of Colonial Avenue/Riverside Drive Passways.

**Cynthia Anger, Assistant City Attorney**, representing the Mayor in his request for 8-24 approval for abandonment of passways on Colonial Avenue and Riverside Drive. These properties were acquired through foreclosure by the City in 1970 and 2004. They are used as access for residential properties, some of which have alternate access and almost all have deeded rights of access through the passways.

Public Works has been consulted and has no objection. There is no drainage, no sewer pipes through these passways and the Mayor is asking for this Board's approval.

**Ms. Shaw:** Comments from staff?

**Mr. Sulkis:** No.

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**Mrs. Patterson:** Who will be responsible for disposing these properties? Will they be put up for sale, auction or allow the residents that live next to the properties take care of them?

**Attorney Anger:** Typically, when passways, otherwise known as “paper streets”, the paper street is abandoned to the abutting property owners, each of which assumes property to the center line of the passway or paper street. The properties are not sold. They become part of the adjoining properties.

**Mr. Liddy:** The taxpayer then increases the tax base. The tax is increased because new land is being acquired. Correct?

**Attorney Anger:** There would be some diminimus increase in taxes. Typically it is not a significant amount, because the actual strips are only adding 5 to 10 feet of property along the length of the adjoining property.

**Mr. Liddy:** Do all these property owners know that this is happening?

**Attorney Anger:** If the Board makes the recommendation to the Board of Aldermen, the Code of Ordinances requires that abutting owners receive notice and be provided an opportunity to appear before the Board of Aldermen to comment.

**Mr. Ferrante:** Who owned this property prior to its foreclosure?

**Attorney Anger:** It is the City’s understanding that the title never came out of the original developer, which was Charles Root, sometime back in the early 1900s.

**Mr. Ferrante:** Concerned if there was a need for the neighbors, other than the abutting neighbors, to use this for access closer to the river or walking, or was there some common purpose that is being closed down.

**Attorney Anger:** As best she can tell from the maps these appear to be accessed purely to the abutting property owners. Thinks there may be one that provides a cut through access, but none of these properties by virtue of abandonment will be land locked.

**Mr. Dickman:** Concerned if this access is closed, Nos. 31, 39 and 45 Riverside Drive will not have access for an emergency vehicle or for the actual owners of the homes get to their homes. This can be seen from the drawing that the

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garages are in the back. If you were to visit the neighborhood, the front yards of those properties are not only very deep, but the grade is steep. Are the owners aware that this is happening?

**Attorney Anger:** Not certain which portion of the passways to which Mr. Dickman was referring. The property owners will get notice of this prior to any official action by the Board of Aldermen. This Board by an 8-24 approval is making a recommendation to the Board of Aldermen about whether it deems this to be something in the City's interest. Yes, these owners will absolutely receive notice.

In terms of access for emergency vehicles, it is no better or worse by the City abandoning its interest in these properties.

**Ms. Shaw:** Asked how this first came to the City's attention?

**Attorney Anger:** It was her understanding that there was some correspondence and she does not know from which owners, suggesting that there were some maintenance issues on these passways. They checked the land records and determined that the City had acquired these interests through foreclosure and were seeking for the City to maintain these passways.

**Mr. Ferrante:** It appears that some of the adjoining properties are using these passways as driveways, i.e, Nos. 45, 51, 57, 39 and 31.

**Attorney Anger:** Believes these passways are being used as driveways, although some of these properties have alternate access. This action would not in any way impair their ability to access their property. They have no greater rights by virtue of an abandonment or lack thereof than they presently have.

**Mr. Ferrante:** Some of these would be foreclosed out if the abutter ahead of them got the fee to the title. On the map there are a couple of properties that at the end of the passageway their driveway begins. There are some houses, as Mr. Dickman pointed out, that will not have access to the street other than another portion of the part that is being abandoned. If that portion that is being abandoned is given to the abutters, then these people might be foreclosed out.

**Attorney Anger:** Many of these properties have deeded rights of way over these passways so that no one will be land locked. In fact they have been using

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this passway, either the present owners or their predecessors for over a hundred years, so they have acquired rights to use even aside from what may be contained in their deeds. The City did not acquire any rights to foreclose them out of access when it acquired these properties through foreclosure.

**Mr. Liddy:** By abandoning these areas they will not have to be maintained by the City. Therefore it will be incumbent upon the property owners to maintain these driveways, passageways or whatever and the City does not have to take care of them anymore. Is that correct?

**Attorney Anger:** The City has not maintained these passways at all. Potholes are not filled and some portions of the passways are not even paved and garbage is not picked up. These are not areas that are considered public streets and that is why they are paper roads and passways. The City has never assumed any maintenance obligations for these passways.

**Ms. Shaw:** Stated that some of the homeowners are aware of this action and have brought it to the City's attention. Will any of the homeowners be adversely affected by other homeowners who will now own this property?

**Attorney Anger:** Did not believe this would be the case. Thinks that everyone who has access presently will continue to have access. The L-shaped portion is dead ended from Colonial Avenue through the end. The T-bone shaped passway is dead ended at both ends of the T. The curved passway, which does not dead end, but goes out to Riverside and Colonial, she would imagine that the only people using this presently would be the abutters. These properties are not improved in any way to be city streets. All the abutters and non-abutters are notified through the newspaper notices. There will be a public hearing and everyone has a right to speak.

**Ms. Rose:** Will the neighbors be notified individually at their homes?

**Attorney Anger:** Yes, they will each receive a letter ten days in advance of the public hearing, by ordinance, and will have the opportunity to speak at the Board of Aldermen meeting.

**Mr. Mead:** Stated 45, 51 and 57 Riverside Drive are using the passways to access their own property and if the City does not maintain it now and it is abandoned, who will pave and plow later if the City does not do it now?

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**Attorney Anger:** Upon looking at the homes on the map to which Mr. Mead was referring, stated the residents will continue to use the passway to access their homes. These would in effect be private rights of way and all of those who use them would be responsible for their maintenance.

**Mr. Mead:** If No. 38 on Colonial Avenue abuts that passway and takes that land then 51 and 57 will not have access to their driveways.

**Attorney Anger:** They cannot take the land. Under an abandonment the land is divided through the center line to the abutting property.

**Mr. Mead:** Asked if those two property owners would still have access to the land, even though the other person bought half of it?

**Attorney Anger:** Clarified that the abutting owner would not be buying the land. It is abandoned and yes the other property owners would have access to the same degree they currently have. This confers no greater or lesser right.

**Mr. Liddy:** There appears to be a burden on the taxpayers by forcing them to maintain a road that the City should be maintaining.

**Attorney Anger:** This is not an official city street and the City has never maintained it. The reason the passways were acquired was because these were parcels that no one was paying taxes on and the City wanted to remove them from the tax rolls, the delinquency rolls. It is correct that someone will be paying taxes on them and the abutting owners may choose or not choose to maintain them.

**Mr. Vetter:** These are back lots. It would be incumbent on the homeowner to maintain it. It seems the City has come to own these properties but does not want to own them and maintain them. Moved to approve the 8-24 request by Mayor James Richetelli for the abandonment of the Colonial Avenue/Riverside Drive passways as detailed in the memos received by the office on December 28, 2009.

**Ms. Rose:** Second.

A vote was taken: Nine members voted in favor. Mr. Liddy opposed the motion. The motion passed.

(Attorney Anger left the meeting at 7:55 p.m.)

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**E. NEW BUSINESS**

Request by Kevin Curseaden, Esq. for an informal discussion on behalf of DeForest Smith for a proposed change of the BD Zoning Regulations to allow restaurant-coffee houses, with a drive-in.

**Kevin Curseaden, Esq., Stevens, Carroll and Carveth, 26 Cherry St., Milford.** Congratulated the new Board members and the new Chair and Vice-Chair. Thanked the Board for their public service to Milford.

Before the Board tonight on an informal basis to introduce the concept for a proposed zone text change. It would be an amendment to the existing regulations for the BD zone, which only has three or four sites in Milford.

He has provided the Board with a blow-up copy of a particular site that is owned by Mr. DeForest Smith, who is present at this meeting.

Attorney Curseaden described the maps he submitted to the Board which highlighted the location of the small piece of BD property in relation to the sea of DO-10 and DO-25 zones. This particular property is located off Exit 55 on the Merritt on the southbound side. Coming off that exit, it is the property right after the Kinder Care and fronts on Wheelers Farms Road. Intention is to introduce this idea to the Board and answer any questions they might have and to provide the text change that would be within the existing zone text of the regulations.

Section 3.8.2.10 is a new section being proposed to allow drive-in banks and coffeehouses. The existing regulation already allows drive-in banks, but for clarification purposes, after meetings with Mr. Sulkis, he requested that this be added, as it was in another section of the regulations. So, the text change would be for drive-in banks (already allowed) and drive-in coffeehouses. However, there would not be more than one drive-in allowed per site.

Section 3.8.5.4 reiterates the prohibited uses but says that no drive-in establishment shall be permitted except for drive-in banks and drive-in coffeehouses, so it is repetitive. That is an amendment to the existing regulation.

As part of this, there was no definition in the regulations for a restaurant/coffeehouse and no definition for a drive-in coffeehouse. Therefore, it is also being proposed that the definition section be amended to include those two definitions as proposed. This was also discussed with Mr. Sulkis and some

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revisions were made based on some of his comments in the past. Also looking to seek the Board's comments.

There are at least two ways that a zone text change or amendment regulation can come before the Board. They can be driven by the Board or driven by someone in the public, or the applicant, which in this case would be Mr. Smith.

Prior to the zone being changed in the mid-nineties, believes this type of use was allowed. It is not incompatible with the DO-10 and DO-25 zones. It is not outside the City's comprehensive plan of development. Believe this change would be a nice fit and bring something to that area which would be needed. Also do not believe the use of a drive-in bank or drive-in coffeehouse, would create an increase to traffic. People who would access this type of use would already be in the area either coming off or going onto the Merritt Parkway, or into/out of the corporate parks in that area.

**Ms. Shaw:** Asked Staff why this was not included in 1999.

**Mr. Sulkis:** Did not know why this zone was excluded many years ago. Mr. Curseaden did a very good job summarizing the proposed text change and what they wanted to do. Added that although there are only two BD zones in this area, there are a total of six BD zones in the City and each of these zones would be affected by the change. The Board would have to look at how this change impacts not only this site, but the five other sites.

**Mr. Vetter:** Asked why this parcel was zoned BD in the past?

**Mr. Sulkis:** Responded when the last comprehensive rezoning was done in 2004, there was a zone called General Business (GB). Those general business zones were converted to what is now called BD zones.

**Ms. Rose:** Asked if this change could be considered spot zoning.

**Mr. Sulkis:** Responded no because this would be a text change to an entire regulation for an entire zone. If Mr. Curseaden was coming before the Board for a specific change for just that property, that would be spot zoning. This is a text change to a regulation that affects every property if it is located in a BD zone.

**Ms. Rose:** Asked if it was known where the other six parcels are located.

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**Mr. Sulkis:** Stated this change would affect zones that could have more than one parcel of property. When the actual application is submitted, the Office would do an analysis of what the effect of this would be for each of these zones. Since there are only six of them and they are relatively small, the Board will know how many parcels will be affected.

**Mr. Ferrante:** Asked Mr. Curseaden if there was just one parcel in the BD zone for which he was requesting the change.

**Mr. Curseaden:** His client owns the piece of property which is the only piece zoned BD in that area. The rest of the area is DO-10 and DO-25.

Named the location of three other BD zones in the City. One is on the corner of Merwin and New Haven Avenues, (near Adams Supermarket). Another one is a small piece on the corner of Meadows End Road and Robert Treat Parkway where there is a convenience store. The third is on the corner of Melba Street and Yale Avenue. There might be some others.

**Mr. Liddy:** Asked which coffee house was being considered so that the Board could better envision the potential use.

**Mr. Curseaden:** Said he did not have that information. Too soon to say. The change would be worded so as to accommodate a sit-down type coffee restaurant.

**Mr. Dickman:** Could not understand the definition difference between a fast food restaurant and a restaurant coffeehouse.

**Mr. Curseaden:** It would be a less intense use than a McDonald's or other fast food places. More for coffee or coffee-related items that go with coffee-type beverages.

**Mr. Sulkis:** Based on the definition there could be a Starbucks or Dunkin Donuts and both coffeehouses can have a drive-thru.

**Mme. Chair:** Asked Mr. Sulkis to provide the Board with the other locations of the BD zones located in the City.

**Mr. Sulkis:** Mr. Curseaden is here tonight to bring the concept before the Board and if they want to give him guidance and wants to know how they feel whether it

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be positive or negative. The Board should have a map that shows the existing BD zones that would show each in its context.

**Mr. Vetter:** Asked Attorney Curseaden if there was a time consideration in this proposed text change.

**Mr. Curseaden:** There is a built-in delay in that the application has to go before some regional agencies and other notices that will have to be distributed. Had hoped to bring the request for a change by the February meeting, but this does not appear likely.

**Mme. Chair:** Thanked Mr. Curseaden.

**F. OLD BUSINESS**

**PROPOSED TEXT AMENDMENT TO ZONING REGULATIONS:**

**Sec. 5.1.4 Off-Street Parking Requirements** – Board approval of Minimum Off-Street Parking Requirements Nos. 2, 3 (a-d), 4, 6.

**Mme. Chair:** Asked Mr. Sulkis to refresh the Board's memory as to these changes.

**Mr. Sulkis:** In the parking section of the regulations there is a table that talks about the amount of parking spaces for different uses. At the November meetings the Board acted on some of the items on the table but not all of them. The Board has the items that were not approved in this section and they may act on these changes tonight.

**Mr. Vetter:** Stated he had questions on each of the proposed changes that had previously been discussed. Not practical to have four spaces without any tandem parking on a two-family home. It is reasonable to have two spots in tandem. If the goal is managing density, he thought the Board had moved towards four spaces, excluding garages and limited to two vehicles in tandem; the thought being to remove the ability to use the garage and end up with one spot in a driveway for a unit. This is specific to two-family homes.

Regarding (3) Multiple Family Dwellings, questioned the maximum provision in the existing regulation of two spaces minimum, 3 spaces maximum. Why is there a maximum provision?

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**Mr. Sulkis:** There was a range of parking spaces that were given. It was up to the developer as to whether they wanted to provide the minimum or the maximum in allowable parking spaces. In multi-family situations, (condos), there is a lack of parking, because the minimum was not enough. The numbers provided in the regulation change are more realistic for today's use.

**Mr. Vetter:** (4) Housing for the elderly, questioned why is this being changed? Does this account for staff and for multiple people in a unit? The hospital regulation and convalescent, nursing home regulations are different in accounting for staff and the number of beds as opposed to the number of units.

**Mr. Sulkis:** Cited the Riverview Apartments for the elderly across the street where many of the people who live there have cars, but most likely, only one car. Although other people may park there, i.e. maintenance and nursing aides, it is not an institution that would fall into a different category of the regulation.

**Mr. Ferrante:** Should maintain the tandem parking exclusion in the two-family dwellings.

**Mrs. Patterson:** Tandem parking should be allowed for two-family dwellings. Agrees with housing for the elderly change as family, caretakers, etc. can park there when helping a resident. Agrees to leave (3) as is.

**Mr. Liddy:** Thought that "elderly" should be defined. Some developments are for 55 years and older, which would not be considered elderly. How is elderly defined?

**Mr. Sulkis:** There is no definition of elderly, however, age-restricted housing is a very particular kind of housing. Ultimately any of these projects would be Special Permits or Special Exceptions to the Board where the Board members will be able to judge. Elderly housing and age-restricted housing are two distinct housing products serving two segments of the population. This would be clear when an application of either type comes before the Board.

**Ms. Rose:** Asked if the newer condominiums on Naugatuck Avenue would be considered two-family that would be affected by allowing tandem parking?

**Mr. Sulkis:** Yes, because it was developed with two units on five separate parcels. It is operating as a condominium complex. Based on how the courtyard functions or does not function may be an instance where tandem parking might be a problem depending on how people park there.

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**Mr. Ferrante:** Suggested Mr. Sulkis reconsider these changes and come up with something more clear with regard to tandem parking. His understanding of tandem parking means no parking the car outside the garage and counting the garage, thereby giving two spaces. If there is an L off the garage, that would be fine. The condominiums on Naugatuck Avenue would be a problem and that is what he is trying to avoid. This would have to be enforced as each plan comes before the Board.

**Mme. Chair:** Asked Mr. Vetter if he was in agreement with Mr. Ferrante's thinking, so that direction can be given to Mr. Sulkis.

**Mr. Vetter:** Believed that what he wrote would solve Mr. Ferrante's question, but would leave it to Mr. Sulkis for clarification. He stated what he had written: "Four spaces, excluding garages and limited to two vehicles in tandem."

**Mr. Mead:** There are duplex homes near Jonathan Law HS with driveways on each side, two and two without garages. Agreed with Mr. Vetter's suggestion because there are no garages provided.

**Mr. Vetter:** Mentioned when the Board approved a lot across from Dunkin' Donuts that was never built, where there was covered parking underneath part of the unit, that would also be allowed. The Board appeared to be comfortable with parking arrangement.

**Mme. Chair:** Suggested Mr. Sulkis take another look at the parking for two-family dwellings. This is the one item with which the Board appears to have a problem.

**Mr. Sulkis:** The issue hinges on the garage. The Board wants people to have the garage and use the garage but does not want them to count the garage. Will try to work on this.

**G. PROPOSED REGULATION CHANGES**

**Mme Chair:** The sign regulations were discussed at the last meeting. They were to go to the legal department and there was one change that Ms. Harrigan was to bring back to the Board.

**Mr. Sulkis:** Will follow up with Mrs. Harrigan.

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**Mr. Ferrante:** Asked if the Chamber has given their feedback on Ms. Harrigan's proposals for the sign regulation changes. Asked if the Chamber should be asked for its comments since they went through all the trouble to present the sign regulations to the Board. Would like them to be more involved before the Board votes.

**Mr. Sulkis:** That is why there is the public hearing process. They have been furnished copies of the regulations. Not aware as to whether they have given feedback. Expected if they had issues he would expect them to come to the public hearing and let the Board know. It is possible they have already given their feedback to the office and if that is the case then some alterations would have been presented to the Board.

**Mr. Ferrante:** Asked if the poultry regulation was returned from Legal.

**Mr. Sulkis:** Stated he must provide the Board with the latest language on the chickens and tents regulations.

#### **H. LIAISON REPORTS**

**Mme. Chair:** Did not have a full list of liaisons for various boards and commissions. The members are welcome to act as liaisons for any board or commission they think are important to act as liaisons to the Board.

Suggested the Board members take the next two weeks to determine for which commissions they would like act as liaisons. The Chair noted she would go to the Board of Aldermen meetings until someone else offers to be a liaison.

**Ms. Rose:** Stated she is currently the liaison for the Regional Council of Governments. Normally the chair or vice-chair is the person who takes that position.

**Mme. Chair:** Was aware of this but would like to discuss this at the next meeting.

#### **I. APPROVAL OF MINUTES – (11/17/09)**

**Mr. Vetter:** Move to approve the minutes for the 11/17/09 meeting.

**Ms. Rose:** Second.

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There was no discussion. All members voted in favor of approving the minutes as recorded.

**J. CHAIR'S REPORT**

**Mme. Chair:** Thanked the Board.

The printing of new zoning regulation books was discussed.

The new members' green handbook will be distributed to them when they meet with Mr. Sulkis.

**Mme. Chair:** Received a list of the commissions to which there are currently Board liaisons: Fire Department, Sewer Commission, Tree Commission, Inland Wetlands Commission.

**I. STAFF REPORT**

**Mr. Sulkis:** The Planning and Zoning Department is now the Planning and Zoning Division of the Land Use Permit Bureau. Mr. Novak is in place and things appear to be moving along smoothly.

**Mme. Chair:** Stated she hoped Mr. Novak would come and visit the Board.

Mr. Vetter made a motion to adjourn the meeting.

**Ms. Rose:** Second.

The meeting was adjourned at 8:45 p.m.

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Phyllis Leggett, Board Clerk