

**MINUTES FOR THE ONE (1) PUBLIC HEARING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JANUARY 15, 2008; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair, Jeanne Cervin, called to order the meeting of the Planning and Zoning Board Public Hearing at 7:30 p.m.

A. ROLL CALL

MEMBERS PRESENT: Mark Bender, Frank Goodrich, Janet Golden, Kathy Patterson, Kim Rose, Kevin Liddy, Greg Vetter, Susan Shaw, Jeanne Cervin, Mme. Chair, Victor Ferrante (7:34)

STAFF: David Sulkis, City Planner, Phyllis Leggett, Board Clerk

Mme. Chair: Notified the audience that written information was available for their review in the lobby concerning the procedure of a public hearing.

B. PUBLIC HEARINGS

1. **155 & 156 FOURTH AVENUE (ZONE R-10)** Petition of Kevin Curseaden, Esq. for a Special Exception and Site Plan Review to permit an accessory structure on a lot without a principal use on Map 9, Block 80, Parcels 5-6, of which Daniel Lemire is the owner.

Kevin Curseaden, Esq., Stevens, Carroll & Carveth, 26 Cherry Street, Milford.

Representing the owners, Mr. and Mrs. Lemire in their petition for a Special Exception and Site Plan Review. At this time there are two separate lots located in the R-10 zone. Asking to construct a garage without a house on what is now Lot 155 in the Laurel Beach area.

Mr. Curseaden stated there is a four-foot wide passway that winds its way throughout most of the Laurel Beach Association property. That passway separates the two lots in question. There is no way to legally merge the two lots because the passway is owned by the Laurel Beach Association. According to the regulations, the property owners are required to come before the Board to ask that a garage be allowed to sit by itself on that lot without a principal structure. If it were not for the passway, it would not be required to be before the Board.

Noted all the city agency comments were in the record and there was nothing of note from any of the responses. No Coastal Area Management Site Plan Review is required due to the elevation of the property. There will be no sanitary facilities or sewer hookup to the proposed garage.

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Also asking the Board's approval of two covenants that would run with the land tying the two lots together indefinitely, and a further restriction that the garage can never be used as a residential structure.

John Wicko, Architect, 50 Broad Street, Milford. Explained the site plan as displayed. Showed the two lots and passway in question. The setbacks for the accessory structure are met. Described the proposed driveway. Described the existing site consisting of a house and deck and the houses that are next to the property. Described the proposed garage with stairs and a storage area in a half story above the garage. Stated the reason for the garage with a storage area above is because the existing house has no basement. There is a crawl space in a flood zone plain. There is no storage for the owners. It will not be used as a residence and will be tied in to the other lot. The garage is designed in the gambrel style with shingles and nice trim details with a couple of dormers.

Mr. Curseaden: Submitted a letter of support from a neighbor which was date stamped into the record.

Mme. Chair: Asked if there was anyone to speak in favor of the application. (No response)

The letter was read aloud to the Board.

Anyone to speak in opposition to the application? (No response)

Explained to the Board what a Special Exception is.

Asked Mr. Sulkis if there were any agency reports of note.

Mr. Sulkis: Agency reports were favorable. Very straightforward.

Asked if Mr. Curseaden had anything in writing to be entered in the land records to support the statement that there would be no future development of this property.

Mr. Curseaden: Yes. Should the Board approve this application he would work with Mr. Sulkis and the City Attorney's office to see what they would require for wording of the covenant or restriction that will be provided.

Mr. Liddy to Mr. Sulkis: Is the passway that is there now public or private?

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Mr. Sulkis: Laurel Beach is a private association, so it is a private passage way for the residents of Laurel Beach to use to gain access to the beach and also some blocks in the area. Even though it is only four feet wide, it is still considered a lot. Had that four foot wide lot not been there, then they would have no need to be before the Board tonight.

Mr. Ferrante: No sanitary. Does that mean there is no water in and no obstruction to the four-foot passage way?

Mr. Curseaden: No sanitary requirements. The passway is held in fee-simple by the Association. Nothing can be built on it. The set backs are from the four-foot boundary line.

Mr. Ferrante: That will remain open?

Mr. Curseaden: Yes.

Ms. Rose: What utilities will be in place? Heat electrical?

Mr. Curseaden: Electricity at this time.

Ms. Rose: Could the upstairs storage area be used for an office in the future?

Mr. Curseaden: No. It will be a one-car garage and storage.

Mme. Chair: Do we know that the lots cannot be merged?

Mr. Sulkis: The passway is owned by someone completely different. Many have tried to buy the passway properties and if it could have been bought, it would have been.

Mrs. Patterson: The design of the structure is different from the house next door. A specific reason for this?

Mr. Wicko: Intent was to keep the structure quaint and charming.

Mme. Chair. Declared the public hearing closed.

At this time made a statement to correct something for the record. Last week a press release and a letter to the editor was published in the newspapers that claimed that at the last meeting the Board had a discussion and made a motion to place party designations on nameplates. Has no idea, nor can understand how the person who wrote these pieces could come up with such flagrantly

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wrong information. There was no motion, nor discussion to this effect. The record shows that. The only designation that appears on the nameplates is the district that each member represents. Never, to her knowledge, as there been party designation, nor will there be, as the Board will continue to operate in a nonpartisan way to make land use decisions for the City of Milford.

She also noted there had been mention that the seating arrangement was placed by political party. The seating arrangement, as per tonight's meeting, is changed to show the Board's commitment to set aside partisan differences and work together as a team.

C. NEW BUSINESS

2. **43 BEACHLAND AVENUE (ZONE R-5)** Petition of John L. Grant for a Coastal Area Management Site Plan Review for approval to construct a single-family residence on Map 29, Block 557, Parcel 7, of which Joseph Gelb is the owner.

Ms. Rose: Asked to recuse herself because she works with Mr. Grant.

Mme. Chair: Explained the reason for a Coastal Area Site Plan Review (CAMSPR) for this application. Properties falling within the coastal boundary zone require a CAMSPR to comply with DEP and State statutes and must come before the Board for approval.

John Grant, 11 Ettadore Park, Milford. Present with Joseph Gelb, 20 Lawrence Avenue, Milford, the property owner. Described the location of the property with an existing structure on it. The property is between 80-90 feet from the beach and tidal wetland resources. No waterfront, beach sand or marine animals or plant life on the property. The property is land locked, bordered by city streets and single family residences on either side. It is in an AE flood zone. The new residence will be built in the same spot with two retaining walls. Very little excavation to be done on the site, which fill will be reused to construct two retaining walls. There will be a tracking path for the equipment used to keep the property clean during construction. Precautions will be taken to prevent any environmental problems during construction.

Mme. Chair to Mr. Sulkis: Any comments?

Mr. Sulkis: Very straightforward. Had this not been in the CAM zone, the Board would not be seeing this application.

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Mrs. Patterson: The footprint is exactly as it has been?

Mr. Grant: No. Slightly different. New house will be more conforming to the setbacks of the property than it is at present.

Mr. Goodrich: Made a motion to approve the application.

Mr. Liddy: Second.

Mr. Vetter: Is there a requirement to see other properties surrounding this application to see how it applies to the existing neighborhood?

Mme. Chairman: Not in this type of application.

Mr. Goodrich: The height of the property is similar to the houses on either side, as well as the footprint being very close to that of the existing structure.

Mrs. Patterson: For the record, he will follow close to the same footprint that is there now.

A vote was taken: All members voted in favor. The motion passed unanimously

D. OLD BUSINESS

3. **198-206 DEPOT ROAD (ZONE LI)** Petition of Jesse Hamblin, ID Design Group for approval of a Site Plan Review in order to construct a 2,025 SF warehouse building and 898 SF Warehouse Addition on Map 92, Block 705, Parcel 1, of which MS&K Industrial LLC is the owner.

Mr. Sulkis: Mr. Hamblin came in with information late this afternoon. He has an appointment next week to discuss the items requested by the Board. Hopefully, it will be in a form acceptable to the Board at the next meeting.

Mr. Liddy: Motion to table 198-206 Depot Road.

Mrs. Golden: Second.

A vote was taken: All members voted in favor. The motion passed unanimously.

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Mr. Liddy: Made a motion to add to three items to the agenda: Two items are bond return requests. The third item is to clarify a motion that was passed at the last meeting. The amendment to the motion was passed, but the original motion was not voted upon.

Mr. Goodrich: Second.

All members voted in favor.

Mme. Chair: Need a motion to approve the request made by Bruce Kerzner for an extension of time to obtain a zoning permit for a previously approved Coastal Area Management Site Plan Review on Map 59, Block 795, Parcel 47, of which the Kerzner Family Limited Partnership is the owner.

Mr. Liddy: Motion to approve the extension of time to obtain a zoning permit.

Mr. Goodrich: Second.

All members voted in favor.

Mme. Chair: Gave a summary to the Board as to the need for payment of bonds to the City as they relate to planning and zoning for subdivisions and other purposes, and likewise, the reasons for partial or full return of bonds and the role of the Board in approving same.

Mr. Sulkis: This is a routine administrative process. Usually related to subdivision developments where roads or other public improvements are involved. The subdivision bond returns brought before the Board could be recently approved or very old ones.

The 485 Anderson Avenue, Hunters Run subdivision, is a release of the maintenance bond in full. They have completed all the requirements of the Public Works Department.

The partial bond release for 15 and 22 Southworth Street, John Henry Subdivision, is for the portion of the work that has been completed. Additional work is to be done, for which bond funds will be retained.

Upon a request for a bond return, the engineering department inspects the status and completion of the work involved. They itemize the percentage of work completed and equate it to the dollar amount for the subject category of the project. Engineering submits their evaluation to the public works director for his approval. In both bond release requests, the public works director has signed his

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approval. At this point it can go before the Planning and Zoning Board for its approval for the bond to be returned.

Mr. Vetter: Asked about the mathematic calculations in determining the bond reduction, noting specific items in the Southworth Street project.

Mr. Sulkis: Explained there is an item-by-item checklist that the engineering department created when they put together the original bond. They go by this on a line-by-line basis and make adjustments to each line item. At some point this bond will go through another reduction before it goes down to substantial completion, at which time 10% will be maintained for one year.

Mme. Chair: Take a vote on each separately.

Southworth Street (John Henry Estates). Request of Richard Gustafson for subdivision bond reduction in accordance with a memo of approval received by Bruce Kolwicz, Director of Public Works dated January 14, 2008.

Mr. Liddy: Motion to approve.

Mr. Goodrich: Second.

All members voted in favor.

Mme. Chair: **485 Anderson Avenue (Hunters Run).** Request of Tom Collucci for return of the balance of a maintenance bond in the amount of \$14,493.00, in accordance with a memo of approval received by Bruce Kolwicz, Director of Public Works dated January 14, 2008.

Mr. Goodrich: Motion to approve.

Mr. Liddy: Second.

E. PROPOSED REGULATION CHANGES

Mme.Chair: Asked Mr. Sulkis to describe the regulation change process, what it takes to make these changes and what changes may be in the process and list of changes anticipated in the future.

Mr. Sulkis: Will limit this to text changes, not map changes. The Board if it believes a regulation needs to be changed or addressed, first meet with him and then bring the ideas to the Board for discussion. When the Board decides on a

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change they would like made, the proposed change will get reviewed by many entities. These include, the City Attorney's office, Regional Councils of Government, neighboring towns and to the State. They all have a statutory requirement to know what is being proposed. Once these agencies have responded, a public hearing will be scheduled, and the public will have their say in the matter. After that, the Board can vote on the change, just like any other application brought before them.

Mme. Chair: Timeframe for this procedure?

Mr. Sulkis: The regional councils of government have 45 days to comment. The State has 60 days. The City Attorney does not have a time requirement. There might be further review by other City departments. Minimum could be three months at the earliest if it was a simple change.

Mr. Goodrich: After the agencies make their review, if there are significant changes, it starts all over again?

Mr. Sulkis: Depending on what the comments are, yes. That is why it is recommended that the Board discuss a proposed change with him before it is made public. Each reviewing entity will look at the nature of the change from their special perspective and this could impact whether or not the change can be made, or what adjustments to the proposed change should be made. In order for a regulation to work the way the Board intends it should be as complete as possible from the start.

Mr. Goodrich: Noted that when an application comes in to the planning and zoning office and goes out for review to the necessary departments, the regulations that are in place at the time are the ones that apply, even if a regulation change is being considered by the Board.

Mr. Sulkis: That is a fair assessment.

Mme. Chair: Have there been instances where the agencies have made significant changes and the process had to start over again?

Mr. Sulkis: Not from a change that was initiated from within the Planning and Zoning Office or its board. An outside applicant can apply to make a regulation change, i.e., at present the downtown merchants and the Chamber of Commerce are looking for signage changes. The response from the City Attorney will necessitate some changes in their submission.

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Three areas that need to be looked at where improvements need to be made:

1. A technical change regarding Special Exceptions. The present zoning regulations do not require a Special Exception applicant to post a notice to the neighbors, or have a public hearing. It has been done by practice over time. These requirements are specified under Special Permits. Under the State law it uses special permits and special exceptions as the same thing. With that in

mind, Planning and Zoning may have been operating both applications in this manner. At this point it should be stated that Special Exceptions require the same posting and hearing requirements as Special Permits.

2. Some time ago there was confusion over the definition of a story, which is tied in to the definition of a basement and definition of a cellar, all of which can ultimately affect the height of a building. Should look at these definitions in order to clarify what each is, as each ultimately affects the height of the house.

3. Cluster regulations: Cannot find anyone to read the cluster regulations and come up with the same interpretation. The regulation should be clear enough so that all who read it will come up with the same interpretation.

Mrs. Golden: Who would attempt to make this regulation clearer?

Mr. Sulkis: The staff, as they are the ones who utilize this section when necessary. This section involves computations and it is not clear what factors should be calculated. Intention would be to work out a formula and present it to the Board. If the formula calculates properly for the Board, the change could be implemented.

Mr. Goodrich: Agreed with Mr. Sulkis concerning the need for a change in the Cluster Regulations.

Mme. Chair: Is there a definition of a first floor?

Mr. Sulkis: Not sure, but can add it in.

Asked the Board for their ideas for regulation changes. Realizes it is early on, but wants to get their ideas and arrive at a consensus of their priorities for the next meeting. Would like to keep the Regulation Change item on the agenda monthly.

Asked the members if there were any regulations they would consider for change.

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Ms. Rose: Zone change for CDD-2, Naugatuck Avenue in the Third District. This will be more than a regulation change involved to change Naugatuck Avenue from the CDD-2 zone. Redefinition of basement, story, etc. would be helpful in this district.

Mrs. Patterson: In the First District there is a lot of open space and development going on north of the Post Road. As subdivisions are being developed and the construction of more houses taking place, would like to see an additional 10% for open space be put into effect.

Mr. Liddy: There might be a State regulation as to the amount of open space the City is allowed to acquire.

Mr. Sulkis: There is. We are at the maximum, which is 10%.

In the northern section of the City there are few opportunities for large subdivisions where open space contributions would be made. In the past four years the subdivision size has averaged seven lots. When the Board accepts open space, it should be contiguous with another piece of land to make it usable. Do not want small parcels of orphaned land.

Mr. Goodrich: Still have some tiny leftover lots (2,000 and 3,000 sf). Do not think 2000 square feet is appropriate for some of the larger uses. Should look at these small lots and say they are not big enough for a multi-family house. Need to look at the way the regulations are written. The same definition in two different areas will have different requirements.

Ms. Shaw: In the waterfront district height and building requirements are important. In the zoning map there is a waterfront design area of the Milford coastline. Should review this district and see what changes might be applicable.

Downtown Milford area, the central business district. Look at this as a more singular subset than the downtown grouping of the MCDD.

Mr. Liddy: Resurrect the noise ordinance regulation as that affects the MCDD district. There was to be research done of other shoreline towns and how they handle this situation, especially as it regards outdoor music.

Mr. Sulkis: No one allowed anything anywhere.

Mme. Chair: Looking at the list there are some concerns. CDD-2. Asked Mr. Sulkis for a summary as to what has gone on in this area.

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Mr. Sulkis: Researched this zone approximately four years ago. The land use trends were going residential along Naugatuck Avenue. At that time 60% residential, balance were multi-family and commercial. At the time the CDD-2 regs were put into place was meant to limit the number of residential, and

increase the mixed use, which would include commercial. Having a regulation that no one likes will lead to properties being left vacant. The few properties that have been developed in recent years along Naugatuck Avenue that have first floor retail have a large percentage of vacancies. Discussed the historic nature of Naugatuck Avenue and the trolley line going down to the beach and how it changed through the years. When the new regs and zone was created, a conscious effort was made to preserve what is there and not do what had to be done, which is, make non conforming some of the uses that are there now.

Believe it makes sense to break that zone up. It is a T-shaped zone. Suggested how the split could be made.

Mme. Chair: CDD-2, Waterfront District and Milford Center, smaller lot sizes. Open space increase not viable. What are the priorities for Board discussion at the next meeting?

Mrs. Patterson: Consensus for all districts is building heights. This should be the priority.

Mme. Chair: The waterfront residential districts may be a good place to start.

Ms. Shaw: That would be a good place to start, as it also encompasses the smaller lots in these areas.

Mrs. Golden: The height of homes is a concern in all the districts.

Mr. Goodrich: Height of buildings has been reduced along the waterfront. 35' is the standard for all residential zones.

Mme. Chair: Some of the height issues will come up in the discussion of the overall priority topics. We would like the public to know we are working on these issues.

Discussion ensued concerning the best approach to take in order to clarify the most advantage way to bring the Board's concerns to the forefront in considering the regulation changes, i.e. specific addresses and examples, so they can be

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researched to determine under what regulations were in place at the time of construction.

Mr. Ferrante: Need to go back individually and bring back to the board examples of what the Board feels are structures that have been built too high.

Ms. Rose to Staff: Asked for an example of construction where basement/story change affected the building height.

Mr. Sulkis: There were concerns about Clearview Commons on New Haven being too high due to the aforementioned definitions.

Ms. Rose: Suggested the members take pictures and bring them in to the next meeting for Mr. Sulkis to research.

Mr. Ferrante: Building height, definitions and small lot size are integrated. Someone will have to put the regulations in order that affect the three above items. These should be submitted to Mr. Sulkis for research and review and he can come back to the Board with his results.

Mr. Sulkis: Asked the Board to get him specific examples of properties that appear problematic.

Mme. Chair: Summarized building height is the issue that everyone appears to have concern with. This item will be on the next meeting's agenda. Board members will bring photos and/or property addresses of concern.

F. APPOINTMENT OF LIAISONS

Mme. Chair: Named the liaisons. (Attached is a list of appointees)

Need a motion from the Board to appoint Kim Rose to the Regional Planning Council.

Mr. Liddy: Made the motion to approve Kim Rose as representative to the Regional Planning Council.

Mr. Vetter: Second.

All members voted in favor.

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Mme. Chair: Kim Rose will head the Historic Committee.

Explained the role of liaisons to the members.

G. APPROVAL OF MINUTES – (1/2/08)

Will be voted on next meeting. All members did not receive the minutes via email.

H. CHAIRMAN'S REPORT

Land Use Academy Workshop \$40. (Paid for by the P & Z Office)

UConn Stamford, 8:30 to 3:00, Saturday, March 15.

Contact the Office to register for attendance.

Reminder for members to sign the Ethics Disclosure Statement.

I. STAFF REPORT

Mr. Sulkis: Contacted all departments that send reports to planning and zoning and asked them to send their responses electronically to the office, which in turn will be emailed to the Board members.

Mr. Goodrich: Motion to adjourn.

Mrs. Golden: Second.

Meeting adjourned at 9:00 p.m.

Phyllis Leggett, Board Clerk