

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Bender called to order the January 17, 2012 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

MEMBERS PRESENT: Kevin Liddy, Ward Willis, Ben Gettinger, Jeanne Cervin, John Grant, Edward Mead, Vice Chair; Michael Casey, Dan Rindos, Tom Nichol, Mark Bender, Chair.

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

C. PUBLIC HEARING LEFT OPEN - CLOSE BY 1/17/2012; 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.

Chairman Bender: This public hearing has been kept open for two specific items. Item one was the evaluation of two reports submitted to Sgt. Sharoh of the Milford Police Department Traffic Division for his review. Item two was an opinion from the City Attorney's office regarding the litigation taking place between the applicant and the Ellisons who are contesting the subdivision application.

The Chair gave a summary of the responses received: Sgt. Daniel Sharoh wrote, "taken into account all factors reviewed in this matter, there should be a requirement that the stated sight line easement remain in force and acted upon. The deeded easement diagrams and descriptions should be added to the design application submitted package. I maintain my earlier recommendation of approval of the project based upon considerations of issues related to traffic safety."

The Chair read the response received from the City Attorney's office: "We have reviewed the documents that were sent to our attention. This is a private matter that has no bearing on the Board's approval or denial of this application. However, given the fact that we are aware of litigation involving the sight line easement, if the sight line easement remains a condition of the subdivision approval, then it should be explicitly noted.

The Chair asked for staff and Board comments and questions on these two items.

Mr. Sulkis: The Chair gave a perfect summation. Nothing further to add.

Ms. Cervin: Asked Mr. Lynch if the Board could be assured that this easement is legal at this time.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Thomas Lynch, Esq., 63 Cherry Street, Milford, representing the Applicant. These were easements that were granted by the neighbors. He had submitted to the Board at the last hearing copies of the Warranty Deed and map that were filed on the land records. The easements protect the sight line looking to the north. The City Attorney's memo speaks for itself that there has been an issue that has arisen between his client and the abutting property owners over obligations that may arise regarding a performance agreement that was also recorded. That is the subject of the litigation and does not speak to the issue of the easements.

Ms. Cervin: Had not been sure if the change in the property owner had been an issue with the previous legal papers, but it is not.

Mr. Lynch: They have been recorded on the land records and they run with the title to both properties. His client's property would go in title with the easement and the adjacent property owner at 66 Cedarhurst Lane, in a future transfer, would be transferring title subject to the easements.

Ms. Cervin: How would the maintenance of Lot 1 be determined?

Mr. Lynch: With any easement, it allows a sight line. There was language in there regarding trimming of trees and keeping it open.

Ms. Cervin: Who has that obligation to maintain the sight line?

Mr. Lynch: Mr. Collucci has the right to go onto the property to keep the trees trimmed. The memos from Sgt. Sharoh and the City Attorney stated that it should be made conditional that those easements be maintained.

Chairman Bender: Gave the public the opportunity to speak on the two items in question.

Charles Willinger, Esq., Willinger, Willinger & Bucci, Bridgeport, CT, representing the next door neighbors, the Ellisons. He disagrees with the position that the Traffic Division has taken. He believes the DOT regulations pertain and there is insufficient sight line.

The City Attorney's and Police Department's opinions say that a condition of approval be that a sight line easement be given.

He stated the Performance Agreement and Sight Line Easement have been recorded and that Mr. Collucci, as the successor to the property, is bound to the agreement to pave the Ellisons' driveway. He does not think the sight line easement gives enough sight line distance. Both agreements require execution. He believes Mr. Collucci wants the sight line easement but does not want to observe the performance agreement.

Mr. Willinger distributed the Answer to his clients' lawsuit, by Mr. Lynch on behalf of Mr. Collucci, which was date stamped into the record. He stated he will continue with the

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

lawsuit against the applicant stating the subdivision will have consequences regarding health and safety and traffic. In view of the litigation issues he suggested the Board not approve the subdivision.

Chairman Bender announced it was not made clear that those who are in favor of the application are asked to speak first. Mr. Willinger spoke against the application.

The public was now asked if anyone wished to speak in favor of the application. (No response) Anyone else to speak against the application? (No response)

Rebuttal:

Mr. Lynch: The arguments made by Mr. Willinger are for another day. They will be heard in court based upon the litigation he has initiated. The City Attorney's opinion stated the litigation has no bearing on the Board's consideration of this subdivision. He reminded the Board he had stated the same thing at the first public hearing on this application.

His client has filed an application to subdivide the property at 44 Cedarhurst Lane into three lots. A traffic report has been submitted which has been disputed by the Police Department because it was based upon subdivision regulations that do not apply to this application. Driveways are involved, not city streets. Sgt. Sharoh clarified this in his newest report. The subdivision application has shown that it is reasonable. The traffic that would be generated from the subdivision meets the standards for sight lines as set forth by the zoning regulations and confirmed by Sgt. Sharoh in his memos.

Rebuttal:

Attorney Willinger: The documents that the Board has before them speak for themselves. The sight line easement is necessary and must be maintained.

Mr. Rindos: There is a property located in back of 66 Cedarhurst, which is #50. There is a dirt driveway going in the rear. Was that driveway originally included in the sight line easement?

Mr. Willinger: The sight line easement has nothing to do with that particular driveway (#50).

Chairman Bender: Believes the Board has received as much information as they could get. A lot has to do with the sight line easement. Asked to hear the Board's comments.

Mr. Rindos: Started to state something about #50 Cedarhurst.

Mr. Sulkis: Interjected that 50 Cedarhurst was not part of the two items for which the public hearing was left open. It cannot be allowed to broaden the scope into other issues because the public would not have the right to examine ...

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Bender: Stated the question was in regard to the sight line issue. He wants to make sure all the questions regarding the sight line are answered because that is what the traffic report referred to.

Mr. Sulkis: Agreed, but that was a specific sight line. He cautioned against getting into new areas of the application that are not part of the public hearing that has been kept open.

The Chair closed the public hearing on 44 Cedarhurst Lane.

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

2. **1200 BOSTON POST ROAD (ZONES CDD-5 & R-18)** – Petition of John Zyrilis, 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.

Mr. Willis: Asked if a portion of the parking area was in a residential zone.

Chairman Bender: Yes, approximately 12 spaces. The zone line was supposed to be moved out of the residential district, but that action was not taken.

Mr. Willis: Noted he had viewed the DVD. Asked if the application was approved in 2007.

Mr. Sulkis: This application is no different from the original approval. They came back to the Board because the original approval had expired.

Mr. Willis: Asked if it was known what the use of the building would be.

Chairman Bender: The applicant was not specific. Usage would have to be within the regulations for that zone.

Ms. Cervin: This application had been approved in the past and they have submitted the same proposal and sidewalks have been included. It is known that the residential area is an oversight and that is not an issue. Made a motion for approval.

Mr. Rindos: Second.

Ms. Cervin: Asked to amend her motion. There is a little more leeway with Special Exceptions than with a Special Permit. This gives the Board an opportunity to do a minor modification to a site plan. Would like to bring the landscape plan into more conformity with the current regulations with regard to shade trees in parking lots. The current regulations require one shade tree for five parking spaces. The islands are already in place in this application.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Made an amendment to the motion she presented: In addition to complying with the recommendations of the Tree Commission, the applicant will plant a minimum of four shade trees of 4" caliper within the main parking lot in the existing islands.

Mr. Sulkis: Noted the regulations require a minimum of 3" caliper. That would be better for the tree than the 4" caliper.

Ms. Cervin: Corrected the caliper of trees to be 3" instead of 4" in her amended motion.

Mr. Willis: Second.

Chairman Bender: There is one motion to approve the application for 1200 Boston Post Road, with a minimum of four 3" caliper shade trees on each existing island in the parking lot..

All members voted in favor. The motion passed unanimously.

3. **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.

Mr. Bender: Has concerns about this property being split up to create the subdivision. No guarantees that the historic house that is on North Street will remain there. There is no historical protection guaranteed. He would not be in favor of approving this.

Mr. Willis: Recused himself as he received a faulty DVD and could not watch the meeting.

Mr. Rindos: Viewed the property by walking the area. There will be two houses on two small parcels. Believes the existing house will be demolished eventually. Not a big property and there is a question of changing the footage on one of the parcels. It does not match the rest of the neighborhood. Most of the houses in the area have larger properties. He is against approval.

Ms. Cervin: Also has the same concerns. Noted that Attorney Adams chose not to go to the ZBA for a variance, but chose to come to the Board for a waiver. In Section 6.4 of the Subdivision Regulations, it states the Board can take into consideration the perspective character of the development in making this decision. She does not believe this is in the character of the neighborhood. Believes it is up to the owner, Mr. Peck, to have respect for this city where he has worked for a long time and made money. If this application went before the ZBA, there would have to be a hardship involved. She does not see a financial hardship and this board would be remiss to grant a waiver.

Mr. Mead: Against approval of the application. This is a through street with two front yards; one on Platt Street and one on North Street. The new house would be on Platt Street because the width of the front yard would be wider than it would be on North

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Street. Instead of the lots being rectangular, the property lines would be jogged. It would not fit into the neighborhood. Some of the neighbors were concerned about runoff because there is flooding in that area. Across the street there is a small creek that runs in front of a home. If there was flooding coming off that property it might affect them even more.

Ms. Cervin: Made a motion to deny the subdivision application on 489 North Street.

Mr. Casey: Second.

No discussion. Eight members voted in favor of denial. Mr. Gettinger voted against denial. Mr. Willis recused himself from voting.

The motion passed to deny 489 North Street.

E. NEW BUSINESS

4. **45 JAMES STREET (ZONE R-5)** – Petition of Joseph Codespoti on behalf of Susan Ashelford, for Coastal Area Management Site Plan Review approval for substantial improvement of a single family residence on Map 27, Block 455, Parcel 24, of which Susan Ashelford is the owner.

Mr. Grant recused himself from participating. He is the designer of the house.

Thomas Ivers, Milford Community Development Department. He has been working with the property owner, Susan Ashelford on the renovation of her home.

Ms. Harrigan: The CAM applications usually presented to the Board require more site work than in this project. This is a two phase project. The first part she got funding for was to elevate her home. A lot of the excavation and site work was done through that first phase. The second part of this project is to do a second floor addition over the entire structure. That is where the substantial improvement comes in and based on State statute, this project has to come before the Planning and Zoning Board. It has been through review at all the referral agencies and they had no objections. Most of the excavation work was done when the foundations were done as part of Phase I.

Ms. Cervin: Asked if the elevation was not necessary for the Board to see.

Ms. Harrigan: Not if it is a substantial improvement. These are reviewed by Planning and Zoning and the Building Inspection Division in house for compliance with the Flood Hazard Requirements. Substantial improvement is 50% improvement to the structure. It does not consider the foundations to be 50%. There are allowances within the regulations to exempt noncompliant footprints; to allow for stairs that do not meet the setback requirements if it is being elevated for flood compliance.

Mr. Mead: The plans show it is proposed to move the shed from the wetland area closer to the home. Looks like it is too close to the stairs.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Ivers: Was not aware of anything regarding a shed.

Ms. Harrigan: The shed is within the wetlands and that is why it has to be relocated.

Mr. Mead: If it is moved it looks like it will be too close to the stairs at the back of the house.

Ms. Harrigan: Then it will have to be removed.

Mr. Mead: Would be too close for a variance.

Mr. Liddy: Asked what a grasscrete paver is.

Ms. Harrigan: Explained that a grasscrete paver is almost like a concrete block that is turned over on its side. It is a block system that provides structural integrity so that a car can park on it. It also has pervious openings to allow for planting of material and to allow for rainfall to drain within those open spaces.

Mr. Liddy: Asked how many cars can fit on those pavers.

Ms. Harrigan: Probably two spaces tandem at the minimum. There will also be a one-car garage underneath the structure. Open parking is not regulated outside the house.

Ms. Cervin: Asked for verification that the shed would be removed.

Mr. Ivers: Was not aware the shed had anything to do with the plans that were submitted.

Ms. Harrigan: A Certificate of Zoning Compliance will not be issued at the end of the project unless the shed is removed.

Mr. Rindos: Asked what was being proposed for the Board to approve.

Ms. Harrigan: The second floor addition on an existing one story residence.

Mr. Sulkis: Explained that this house is in a CAM zone and it is a substantial improvement and is considered new. If this property was not located in the CAM zone, it would not be before the Board and the applicant could be doing this as of right.

Ms. Cervin: Made a motion for approval.

Mr. Gettinger: Second.

Eight members voted in favor. Mr. Grant did not vote. Mr. Willis voted against. The motion was approved.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

F. PLAN OF CONSERVATION AND DEVELOPMENT

Mr. Sulkis: The Board received handouts of the outline of the proposed chapters and maps that will be in the new POCD, as well as the proposed schedule of activities that will be taking place the rest of the year. He is in the process of meeting with other department heads and other interest groups. Have at least 7 or 8 meetings over the next two weeks for information gathering purposes. Will be meeting with the consultant for an update on the work that he has been doing for the Plan.

Ms. Harrigan: Gave the new members an overview of the Plan of Conservation and Development. It is the policy guidance document for the City in terms of what is developed and preserved in terms of open spaces, recreation, etc. It is the land use policy document. The Plan of Conservation and Development is required to be updated every ten years. The new members have received copies of it. The Plan has a lot of information pertaining to goals and what has been accomplished.

Chairman Bender: Noted the Plan has a bearing on grants for the City.

Mr. Willis: He understands this document does not have any legal standing. It is basically a recommendation.

Mr. Sulkis: It is a planning document that can be used for grants. It is used regionally and by the State for capital improvement and community projects. It can also be used as the backbone and reasoning for changes in the Planning and Zoning Regulations. The State does it; the region does it and the City has to do it.

Ms. Cervin: There is an action plan in the back of the Plan. Most of the recommendations have been accomplished.

Chairman Bender: Although the City is not bound to do the recommendations, it makes sense that if all this work is done and the resources pull together, to try to incorporate some of it.

Ms. Cervin: Noted the Action Plan was in the back of the current POCD. In the past the Board has reviewed how many of those items have been met. More items have been met than not.

Chairman Bender: Suggested pulling out the report that stated what recommendations were implemented and revisit them.

Mr. Sulkis: Stated most of the items were done and those that were not were not within the Board's purview. A lot of what was accomplished was done through the update in the Planning and Zoning Regulations. The last plan was completed in 2002 and that was followed by a top to bottom redo of the regulations which was completed in 2004.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Liddy: Noted LEEDS was not incorporated in the last Plan and thought it should be in the new plan.

Mr. Sulkis: Explained that LEEDS is basically a set of standards put together by the building association where upon compliance for commercial structures more often than residential, certification for LEEDS can be obtained to various degrees.

Ms. Harrigan: Added one of the LEEDS considerations is environmental or site design. Not only orientation of the building but real things that can be added to the zoning regulations, such as bike rack requirements.

Mr. Willis: Do people from the community have input into the Plan?

Mr. Sulkis: Outlined the procedure of the many levels of public input in the process of producing the Plan of Conservation and Development.

Mr. Grant: LEEDS is something that should be looked at. You can have a building that is not energy efficient which meets LEEDS criteria just by doing some of the things that Emmeline mentioned, such as sidewalks, trees, shading, etc. You can actually build a building that wastes energy rather than saves it, just by addressing the point system. LEEDS is in the process of redoing all their calculations and the way they look at things. Also, LEEDS charges a substantial amount in order for a building to become LEEDS certified. He does not believe it is something the Board would want to mandate. Some of the parts and pieces could be utilized but he would not say a building needs to meet LEEDS' requirements.

Mr. Liddy: Noted that the Milford Hospital Walk-In Clinic on the Post Road is LEEDS certified at the bronze level.

Chairman Bender: Asked Staff if the time line to conclude the project was feasible.

Mr. Sulkis: Stated there is no choice. The process has to be moved along.

Chairman Bender: This will be maintained as a regular line item on the agenda. He will try to make it a point to keep this project in the forefront of the Board. It was started two years ago. Now there is less than a year to go before it must be completed.

G. LIAISON REPORTS

Mr. Willis: Questioned if liaisons are appointed or if a member can attend other board and commission meetings at will.

Chairman Bender: Stated the only official appointment is for himself to the South Central Connecticut Regional Agency. There also had been discussion as to what commissions the Board members can attend. If there is a particular interest by a Board member he should let the Chair know. Mr. Mead chooses to attend the Police Commission meetings, so he is a liaison to that commission.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Ms. Cervin: Will be a quasi liaison to the Tree Commission and Conservation Commission.

Mr. Willis: He thought there was a liaison to the Inland Wetlands Commission. He noted from reading minutes that the Harbor Commission is supposed to have a P & Z representative. Likes the idea of attending a meeting by choice. He is speaking from past experience being on other boards as to the liaison status.

H. APPROVAL OF MINUTES – (1/3/2012)

Minutes were received late. The minutes had been corrected to reflect the fact that Mr. Liddy voted for Mr. Mead for Vice Chair, and not for himself. The correction had been made by the Board Clerk when Mr. Liddy notified her earlier. The Board will review the 1/3/2012 minutes to be approved at the next meeting.

I. CHAIR'S REPORT

Chairman Bender: Commented that when he came to the Board four years ago, he was not fully aware and somewhat uncomfortable about what to ask, etc. He suggested doing a mock application. The difficult part would be the time of day to schedule the meeting.

Asked if anyone would be available or interested in doing a mock application. The members would take a closed application that had no litigation associated with it and present it. The members could ask questions. Staff and long term members such as Mr. Liddy and Ms. Cervin could help moderate it. All board members could ask whatever questions they wished.

Asked if the new members thought this would be useful to them.

Mr. Rindos: Thought it would be a good idea and the workshop could be held before one of the scheduled meetings.

Mr. Sulkis: It would have to be a small group because it could constitute a meeting. If it was done in this manner it would have to be no more than three members.

Chairman Bender: It could be broken up into small groups.

Mr. Willis: Commented his orientation with Mr. Sulkis and introduction to the Planning and Zoning process was informative and thorough.

Mr. Sulkis: Stated if any member wanted to meet with him regarding any application for plans, he would be happy to review them with the board member and point out what they should be looking at and not looking at.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING AND ZONING BOARD HELD
TUESDAY, JANUARY 17, 2012; 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Mr. Casey: Mentioned if the Board wanted to hold a workshop, all members could attend. It could be noticed and the public would be allowed to attend if they wanted.

J. STAFF REPORT – None.

Mr. Liddy: Motion to adjourn.

Mr. Mead: Second.

The members voted in favor of adjournment at 8:35 p.m.

Phyllis Leggett, Board Clerk.