

**MINUTES OF THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
TO BE HELD TUESDAY, FEBRUARY 5, 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 at 7:31 p.m.

A. ROLL CALL

Members Present: Frank Goodrich, Mark Bender, Janet Golden, Kathy Patterson, Kim Rose, Kevin Liddy, Greg Vetter, Susan Shaw, Victor Ferrante, Jeanne Cervin, Chair.

Staff: David Sulkis, City Planner; Peter Crabtree, Assistant City Planner; Phyllis Leggett, Board Clerk.

B. NEW BUSINESS,

1. **159 POINT BEACH DRIVE (R-7.5)** Petition of Dr. Pang-Hsung Wang for a Coastal Area Management Site Plan Review to construct a new single-family residence on Map 30, Block 643, Parcel 2, of which Dr. Pang-Hsung Wang is the owner.

Christopher Carveth, Esq., Stevens, Carroll & Carveth, 26 Cherry Street, Milford, representing Dr. Pang Wang for the construction of a new residence where there is presently an older residence. The excavation and demolition of the existing residence will be lessened because the existing foundation will remain, although it will be expanded. A filtration system will be put in that will capture sediment during the construction process. The residence plans fit entirely in the regulations. No variances or waivers are needed. The stairs and fence that are there will remain.

Mr. Goodrich: The site plan on SP-1 shows the terrace going straight with a tree, but the floor plan, A-1, shows a curve in the terrace and no tree. Which sheet applies to the plan?

Rich Smagala, Architectural Services, Milford, CT. The terrace as shown on A-1 with the curve has been taken out. The round part has been squared off so that it meets the rear setbacks.

Mr. Goodrich: Questioned a bump out on the side of the house that appeared to decrease the side setbacks and not put it within the requirements.

Mr. Crabtree: Stated the bump out in question was a bay window that did not go all the way down to the foundation and thereby corrected the situation of going over the side setback requirement.

Ms. Shaw: What will the square footage be compared to what is there now?

Mr. Carveth: 3,544 square feet for the living area. Present floor plan is 2,700 square feet.

Mr. Liddy: Page A-2, is the height 35 feet to the midpoint of the roof?

Mr. Carveth: Midpoint to the roof is 28 feet.

Mr. Liddy: Is this house high enough not to require pillars for the mean high water mark?

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Mr. Carveth: Explained how the house would be high enough not to require pillars.

Mrs. Patterson to Staff: Has the applicant met all the agency requirements?

Mr. Crabtree: It will go to the Public Works department for curb and walk approval before a zoning permit is issued.

Mr. Carveth: Stated he had the departmental reviews, which stated compliance.

Mr. Vetter: Asked about the excavation of the deck and patio.

Mr. Smagala: No work going on at the sea wall. The terrace will be raised. The concrete patio will be removed and a new patio will be constructed.

Mr. Sulkis: The reason the Board is seeing this application is because it is so near the water and requires a CAM review. There is no construction or design that will be taking place that will have an adverse effect on the environment or proximity to the sea wall.

At this point it was determined that some members did not receive copies of the CAM report. Mr. Sulkis apologized for the error made by the office. The Chair stated she had read the CAM report and believed it to be in compliance with the regulations and asked if the Board would accept her interpretation of the report they could continue, or get the reports to the Board and continue the discussion at the next meeting. Mr. Carveth volunteered to go to his office to make additional copies of the report so that the Board could continue their discussion of the application without holding up the applicant.

Ms. Shaw: In view of the fact that the footprint of the new construction will be larger than the existing house, a review of the CAM report would be necessary.

Mr. Carveth: The application fits within the CAM guidelines and zoning regulations for the new residence construction, whether there was an existing house there or not.

(At this juncture Mr. Carveth left the auditorium to make the additional CAM report copies.)

2. **30 PLATT STREET (R-7.5)** Petition of Munson Shoreline Properties, LLC for a Coastal Area Management Site Plan Review to construct a new single-family residence on Map 29, Block 544, Parcel 11, of which Munson Shoreline Properties, LLC is the owner.

Tim Debartolomeo, PE, Cuoco Structural Engineers, LLC, 60 Katona Drive, Fairfield, CT, representing Munson Shoreline Properties for CAM approval in order to construct a new residence on the property. Property is located at the foot of Platt Street near the Point Beach Association. It is part of an 11-lot subdivision that was previously approved by the Planning and Zoning Board. The lots in the subdivision are currently under construction. This particular lot, due to its proximity to the water, is within the CAM boundary and requires CAM Site Plan Review approval.

Mr. Debartolomeo described the property and the easements that presently exist on it. There is also a pedestrian easement in favor of the Point Beach Improvement Association. There is a vegetative bluff, seaward of where the dwelling will be located. Described the property's proximity to the flood zones, but stated the upland part of the property is not in a flood zone.

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Described the proposed elevations of the application. There is an existing sidewalk that runs along Platt Street. It stops right before the beach. It will be extended down to where the beach can be easily accessed (approximately 30 feet). There will be street trees planted.

Mme. Chair: Asked Mr. Crabtree for his comments.

Mr. Crabtree: Responded that this is the only house to come before the Board for approval in the subdivision that had previously been approved by Planning and Zoning Board, solely because it is the only lot to fall within the CAM zone.

Mr. Ferrante: How is the public made aware there will be public access on this property?

Mr. Crabtree: In this case the owner granted a public easement and it is shown on the map.

Mr. Ferrante: How will they know there is such an access?

Mr. Crabtree: Unless there is a sign put up, they would have to come to the office to know.

Mr. Ferrante: Can it be requested that they put up a sign?

Mr. Crabtree: Yes. There is a standard sign that is used.

Mr. Debartolomeo: Stated the applicant agrees to put up a sign for the public accessway.

Mr. Ferrante: Why is the bluff or dune not delineated on the plan and why is it stated as non-applicable on the report?

Mr. Debartolomeo: It is identified on the drawing but not required to be noted on the CAM report.

Mr. Crabtree: Explained why it was not necessary to address the bluff or dune in the report and that the house is placed in a way that it minimizes any impact to the coastal resources.

Mr. Liddy to Mr. Crabtree: Are they combining lots 9, 10 and 11, and if so can they sell these lots in the future?

Mr. Crabtree: That would require a variance and/or a resubdivision. It would have to have a public hearing. Highly unlikely for the Board to approve another building on the lot.

Mr. Debartolomeo: Explained that there is only one lot involved, even though it is numbered 9-11.

Mme. Chair: This was a very clear CAM report, very well done.

Mr. Goodrich: Made a motion to approve the Coastal Area Management Site Plan for 30 Platt Street.

Mr. Liddy: Second.

Mrs. Patterson: Make a condition of approval to have a sign posted for the public access.

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Mme. Chair: The motion is for approval with the condition to have a sign posted for the public access.

All members voted in favor. The motion was approved unanimously.

159 POINT BEACH DRIVE (Continued at 8:20 p.m.)

Mme. Chair: Noted Mr. Carveth had returned and thanked him for his efforts.

Ms. Rose: Motion to approve the Coastal Area Management Site Plan Review for 159 Point Beach Drive.

Mrs. Golden: Second.

All members voted in favor. The motion was approved unanimously.

3. **214 BROADWAY (ZONE R-5)** Petition of Mark Pucci for a Coastal Area Management Site Plan Review to construct a single family residence on Map 13, Block 132, Parcel 5, of which Mark Pucci is the owner.

Mark Pucci, owner of 214 Broadway, Milford. This plan was brought before the Board in September 2007. Item was tabled due to questions from Mr. John Gaucher of the DEP. The items in question have been addressed and the house has been moved back significantly.

Mr. Crabtree: The building is maxed out on the height. The applicant will be required to provide an A-2 survey to show that he did not go over the height limitations in order to obtain a Certificate of Occupancy.

Ms. Rose: Looking at a four-story building – basement/garage above grade, etc. Can staff comment.

Mr. Crabtree: The four story buildings are very common along the water. There is a walk-out basement. It is excluded from the story count. He cited section 3.4.1 in the yellow pages of the regulations, it speaks about the number of stories. He explained that the space labeled “basement” was not habitable and is excluded from the story count. Other properties in that area are built in the same manner.

Ms. Rose: Stated the definition of a basement, which is partially below ground. This qualifies as a story. Stated that the height of the building was beyond the height requirements of the regulations.

Mr. Crabtree: Clarified how the highest point to the roof was determined.

Ms. Shaw: Asked for further clarification on building heights, in particular, as they relate to domes, cupolas, etc.

Mr. Crabtree: There is a conflict in two sections of the regulations. Explained how the roof area is determined by the applicant. The exception is noted in the yellow pages. (Reg.Sect. 4.1.13 – Building Height).

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Mme. Chair: Clarified Mr. Crabtree's explanation concerning the fact there are two regulations pertaining to the same item that can be observed .

Mr. Liddy: Asked why the CAM reports received for various projects differ in form.

Mr. Crabtree: Explained to the Board why the CAM reports can be different in form.

Mr. Vetter: Stated the site plan received was too small to read. Asked for a larger print out.

Mr. Crabtree: A larger copy can be provided.

Mr. Ferrante: Ms. Rose's question concerning the number of stories has not been fully answered.

Mme. Chair: The height issue is in question, as well as the differing regulations involved in determining height. Asked Staff if there was a timeframe involved in this application.

Mr. Crabtree: Responded there is a 65-day time limit for a site plan review and without board action, the application is automatically approved. The opposite applies to CAM legislation. If the Board does not take action, the application expires and is automatically denied.

Mr. Vetter: Move to table this application until the receipt of more legible site plans.

Ms. Rose: Second.

Mr. Sulkis: Everyone will get a full size set of plans.

Ms. Shaw: Needs a clarification of the basement/garage area. The area is referred to as a garage and as a basement. Would like clarification on this, as the terms are not synonymous.

Mr. Pucci: The area is uninhabitable and can only be used for storage and parking cars.

Mr. Crabtree: Can have a portion of the basement placed below grade by 6 inches if it becomes such a point. As a matter of past practice, the Board has allowed the basement to be flush with grade.

All members voted in favor to table the item in order to receive larger site plans.

C. PUBLIC HEARING HELD 1/15/08; exp. 3/20/08

4. **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.

Mr. Goodrich: Read and made a motion to approve as submitted by Staff.

Mr. Liddy: Second.

Mme. Chair: This is a Special Exception and requires a 2/3 vote by the Board.

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All members voted in favor. Motion was approved unanimously.

D. TABLED BUSINESS

5. **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: Met with Mr. Hamblin. The concerns of the Board have been met. The landscape plan has been provided to the Board and the signage was added to the buildings, which was the requirement of the Fire Department. The Board may want the landscape plan to be specific as to the plantings that will be put in. There is also a waiver for the two curb cuts being less than 25 feet apart. The waiver was not on the previous plans but was incorporated in the new plans.

Mrs. Golden to Staff: Will the fire trucks have a problem gaining access to the property?

Mr. Sulkis: The fire department requested signage for building identification purposes.

Mrs. Patterson: Lighting. Will there be shields on the lights as this property is near a residential area.

Mr. Sulkis: Lighting is required by the regulations for an industrial zone. The lighting is within the regulations.

Mrs. Golden to Mr. Sulkis: Does the Board have all the information it needs to make a decision?

Mr. Sulkis: The applicant has fulfilled the punch list that the Board requested at the previous meeting.

Mr. Vetter: Asked for the definition of a "monument" as depicted in the southwest corner of the site plan.

Mr. Sulkis: Explained that "monument" is a surveying term. It is a known point in the land that is used for surveying.

Ms. Shaw: Asked for more specific plantings to be noted for landscaping.

Mr. Sulkis: What little landscaping is there it is fairly nice for an industrial site. If landscaping is to be replaced, it can be made specific as to what the plantings should be and make that part of the motion to approve.

Ms. Cervin: Explained that the motion states this is a minor amendment to a site plan review and had been stated as a site plan review on the agenda.

Mr. Sulkis: Explained that the site is already there and the building and its uses are already there. These are minor modifications to what is already there.

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Mrs. Golden: Moved to table the application pending receipt of additional information.

Mr. Sulkis: The lighting has been addressed. For clarification, the Board requests an updated landscape plan that removes the ambiguity of what can be planted if changes need to be made in the future.

Mme. Chair: A motion can be made to approve with the condition that Mr. Sulkis receive the landscaping information from the applicant, as requested by the Board.

Ms. Rose: Motion to approve as written by Staff with the condition that the applicant strike the "or equal type tree" or "equal type shrub" from the landscaping plan (SL-1) and provide the office with the corrected plans.

Mr. Goodrich: Second.

All members voted in favor. The motion was approved unanimously.

Mr. Ferrante asked for clarification of the rules of a minor amendment to a site plan review and could the Board have made other requests of the applicant (i.e. add 6 trees), as they could under a regular site plan review. Mr. Sulkis responded that it depends on the circumstance as to whether the changes can be accommodated. In this particular instance there is very little that can be added because the site is so tight and might affect another requirement, i.e. parking. Since this is an industrial site, the choice has to be made as to what is appropriate for the particular application.

Mr. Ferrante: His understanding is when something comes before the Board as a minor change or a major change, it means the Board has jurisdiction over the site.

Mr. Sulkis: The full standards of a site plan review cannot be applied to a minor site plan review.

Mr. Ferrante: The Board is constantly being held to standards. Does not want confusion that because it is labeled minor, the Board cannot ask for things or make changes in both cases.

Mr. Sulkis: At the end of the site plan process, whether minor or otherwise, you want the conditions to be better than when it started.

E. PROPOSED REGULATION CHANGE

Mme. Chair: Asked Mr. Sulkis to report on the assignment the Board was given at the last meeting.

Mr. Sulkis: Stated he received a list of addresses from two board members. Would like the other Board members to submit their lists so he can compare the addresses and make a report.

Mrs. Patterson: Stated she brought a list of properties with photos to the office and gave them to Mrs. Stock, because Mr. Sulkis was not available at that time.

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Mr. Sulkis: Upon his receipt of a full list of addresses, he will compile a list and check for duplicates. An analysis will be made. Of the properties submitted, it appears that the consensus is that the houses are too tall. Some of the properties mentioned in Mr. Liddy's list were pre 2004 houses. The height definition was different at that time. They were taller, but were allowed at that time. That regulation was changed in 2004 because the height became problematic.

Discussed the list of definitions that has been created which defines such items as have been discussed tonight with regard to basement, garage, cellars, etc. With regard to building height, using the resources of the American Planning Association, Planning and Zoning's building height definition is very much in keeping with what is used elsewhere.

Gave the example of the application of 214 Broadway as a case in point for utilization of the terms "basement" and "story".

(The Chair distributed a sheet of definitions to the Board members.)

Mr. Sulkis went on to say that an evaluation will be done of the properties that the Board has identified; review the history and then check the regulations to see why it happened. If there is anything objectionable discovered under the current regulations, the problem will be able to be identified and the definitions can then be altered. Believes a lot of the problem lies within the definitions.

Mme. Chair: Has had a problem with this situation in the past and is very happy it is being addressed now. Hopefully the ambiguities will be resolved.

Mrs. Golden: For clarification, the Board is not as stuck on building height as they are with definitions, such as, basement, story, cellar, etc.

Mr. Sulkis: Would reserve this judgment pending the results of the analysis, which could result in the tweaking of regulations, i.e., height.

It was established that the goal of this process would be to eliminate ambiguities, obtain clarity and not be subject to interpretation by the board or applicant.

Mr. Ferrante to Staff: Will the tweaking of the height regulations push the envelope on the lot coverage regulations? If so, what can the Board do?

Mr. Sulkis: Stated when there are small parcels of land, such as those properties that are close to the water, the tendency is to go up because they cannot go out. When there is more property available, the tendency is to go out. Once the analysis is done and if there are regulation changes to be considered, the pros and cons of the change will be discussed.

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Ms. Rose: Asked if there were any other instances where there are conflicts within the regulations, i.e. white pages v. yellow pages.

Mr. Crabtree: This is a document always in use and from time to time the wording of a section reference may be difficult to interpret and needs to be fixed.

Mr. Sulkis: The signage in the MCDD can be conflicting. There is a proposed change in the works concerning this matter brought by Milford Progress through the Milford Chamber of Commerce.

Ms. Rose: Asked for the section numbers on height, which are in question.

Mr. Crabtree: Under Building Definition in the back of the regulations in the white pages and under building height in Sect. 4.1.13 (Exceptions to height requirements) in the yellow pages.

Ms. Rose: How quickly can this definition problem be resolved?

Mr. Sulkis: A proposed text change can be submitted at the next meeting and then follow the usual trail to make the change, which could take several months, once the wording is agreed upon.

Mme. Chair: The sooner the better. Would like to have the text change presented at the next meeting. Any change that would be proposed would not affect the applicant who came before the Board tonight.

Mr. Ferrante: Suggested the Board not make changes singularly, as they may affect other aspects of the regulations.

Ms. Cervin: Did not think this is considered a rush. It has been a problem for some time and should be addressed.

Mr. Sulkis: We will look at the definition and the particular section and propose something to the Board.

Mrs. Patterson: Asked that the Board consider increasing the percentage of open space donations for approved subdivisions.

F. LIAISON REPORTS

Mme. Chair: The Board of Aldermen authorized an OTB (Off Track Betting) establishment to be located at 89 Roses Mill Road.

G. APPROVAL OF MINUTES – (1/2/08 and 1/15/08)

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Mr. Goodrich: Motion to approve.

Mr. Liddy: Second.

All members voted in favor of approving the Minutes of 1/02/08 as recorded.

Mr. Goodrich: Motion to approve.

Mrs. Golden: Second.

All members voted in favor of approving the Minutes of 1/15/08 as recorded.

H. CHAIRMAN'S REPORT

Reminder about the Land Use Seminar to be held on March 15th. Six members have signed up at this time.

Asked that the members sign the Ethics Disclosure Statement and return them to her.

Passed out brochures describing the LEEDs program and constructing environmentally friendly buildings.

Mr. Liddy: Stated Planning and Zoning is the only elected Board that does not say the pledge of allegiance before the meeting. Would like the Board to say the Pledge of Allegiance and have a moment of silence for the armed services of our country.

Mme.Chair: Does not know of any other land use board that does this.

There was a brief discussion and the matter will be further discussed at the next meeting.

I. STAFF REPORT

Mr. Sulkis: Nothing further at this time.

Mr. Liddy: Motion to adjourn.

Mrs. Patterson: Second.

The meeting adjourned at 9:42 p.m.

Phyllis Leggett, Board Clerk