

## PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 6 FEBRUARY 2024, 7:00 PM

The meeting of the Planning and Zoning Board came to order at 7:00p.m.

### A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

### B. ROLL CALL

**Members Present:** J. Agnese, B. Anderson, J. Alling, E. Hirsch, B. Kaligian, M. Macchio, J. Mortimer, J. Quish, R. Satti

**Not Present:** M. Zahariades

**Staff:** D. Sulkis, City Planner; M. Greene, Rec. Sec'y

### C. NEW BUSINESS

**Capital Improvement Plan 2023-2028** Approval pursuant to CGS Section 8.24.

**Mayor Giannattasio** addressed the board. He said the document was a planning instrument and did not commit the city to any particular outcome but could be essential for securing funds from other sources. He said the focus is on infrastructure, repairs, and upgrades.

**Mr. Anderson** asked about the first-year projects in the document's 5-year scope; the **mayor** said storm resiliency is among those.

**Mr. Alling** noted a discrepancy on different pages regarding the projected cost of \$77 million for a new police department facility and was told the error would be corrected. He asked if the proposed location of the health and human services location had been determined. **Mayor Giannattasio** said four sites are under review with a goal of finding the best value in an accessible location.

**Mr. Satti** moved to approve as presented pursuant to CGS Section 8-24, the City of Milford 5-year Capital Improvement Plan for 2023-2028.

**Mr. Mortimer** seconded.

**Chairman Quish** asked for discussion, none was forthcoming.

**Vote:** Motion carried with **Messrs. Agnese, Alling, Anderson, Hirsch, Kaligian, Macchio, Mortimer, Quish, and Satti voting with the motion.**

**16 Hanover Street** (Zone R-5) Petition of Thomas Lynch, Esq. for a Coastal Site Plan Review to construct a single-family dwelling on Map 22, Block 458, Parcel 6, of which Kenneth Esposito Jr. is the owner.

**Attorney Lynch** addressed the board and introduced his client. He said this step was the 3<sup>rd</sup> in a process: the first was having the lot certified, and the second was a visit to the ZBA for a side-yard variance. He identified the professional project team and described the home in detail. He said DPLU review determined the plan was zoning compliant. He said the city engineer made some technical recommendations that could be added as conditions of approval and that these conditions would be met prior to seeking permits. He said the house complies with all flood mitigation requirements.

**Mr. Sulkis** read his administrative summary, which was consistent with the presentation. He said no adverse coastal impacts are anticipated.

**Mr. Satti** asked for a more detailed review of the lot certification history, variance, and sidewalk requirement, which Attorney Lynch provided. **Mr. Mortimer** asked about the centerline of the garage not reaching the minimum of 18". Attorney Lynch said this pertained to the flood zone. He read from the city engineer's report that "the elevation of the garage floor is only .2' or 2-and-a-half inches higher than the centerline grade of the road at the subject site. The Engineering Department guidelines require that the garage floor be a minimum of 18' above the centerline grade. The owner could prepare a waiver stating that they do not meet the requirement and relieve the city of responsibilities relative to such deviations." Attorney Lynch continued to say that if there is ponding of water on the lot, the builder signs a waiver saying the city has no responsibility for it. **Mr. Mortimer** confirmed with Attorney Lynch that his client will attempt to obtain a waiver and that an apron will be installed.

**Chairman Quish** asked for a motion.

**Mr. Mortimer** moved to approve **16 Hanover Street** (Zone R-5) **with the following modifications** the Petition of Thomas Lynch, Esq. for a Coastal Site Plan Review to construct a single-family dwelling on Map 22, Block 458, Parcel 6, of which Kenneth Esposito Jr. is the owner.

**Proposed Conditions of Approval:** The applicant shall comply with the following Items (Recommendations) contained in the

**City Engineers report dated 1-10-24:**

- A) The Applicant represents that the garage floor cannot be placed at an elevation a minimum 18" above the centerline grade. (If the minimum 18" cannot be achieved, a waiver acknowledging that they are aware that the garage elevation does not meet minimum standards of the Engineering Department shall be presented.)
- B) Calculations and design of stormwater mitigation, prepared by a Ct. Licensed Professional Engineer, may be deferred until (prior to) issuance of Building Permit, subject to the limitations as described in Item I hereinabove.
- C) Plans are to be revised to indicate the sanitary sewer lateral.
- D) CAM Application is to be revised as described in Item Q hereinabove (i.e. provide stormwater mitigation, prepared by a Ct. Licensed Professional Engineer, found to be satisfactory by the Milford City Engineer).
- E) The Applicant may elect to remove the proposed sidewalk from the proposal, without further review by this Department. However, any such intent to remove such sidewalks is to be made clear prior to the approval of any application. (i.e. If the sidewalks are included in any Approval which may be granted, they shall become integral to said Approval, and must be built.)

**Mr. Agnese** seconded.

**Chairman Quish** asked for discussion, none was forthcoming.

**Vote:** Motion **carried** with **Messrs. Agnese, Alling, Anderson, Hirsch, Kaligian, Macchio, Mortimer, Quish, and Satti voting with the motion.**

**187-189 Hillside Avenue** (Zone R-5) Petition of Kevin Curseaden, Esq. for a Coastal Site Plan Review to construct/renovate an existing two-family dwelling at Map 59, Block 795, Parcel 69, of which Sachin Anand is the owner.

**Attorney Curseaden**, 3 Lafayette Street, addressed the board. He said the proposal was for a 1000-sf addition. He said the Zoning Enforcement Officer deemed the application zoning compliant. He said the City Engineer reviewed the plan and required several conditions-of-approval, which are acceptable to the applicant. He said that although review by the Inland Wetlands Agency was not required, comment was nonetheless sought. He said the structure will be FEMA-compliant.

**Mr. Sulkis** read his administrative summary, which was consistent with the presentation. He said no adverse coastal impacts are anticipated.

**Mr. Satti** and **Attorney Curseaden** confirmed that all setbacks were met.

**Chairman Quish** asked for a motion.

**Mr. Satti moved to approve with the following modifications** the Petition of Kevin Curseaden, Esq. for a Coastal Site Plan Review to construct/renovate an existing two-family dwelling at Map 59, Block 795, Parcel 69, of which Sachin Anand is the owner.

**Proposed Conditions of Approval: The applicant shall comply with the following Items (recommendations) contained in the City Engineer's report to the City Planner dated 1-31-24:**

- A) All concrete curbs, sidewalks, and driveway aprons will need to be in good condition prior to issuance of a Certificate of Occupancy as determined by the City Engineer.
- B) Stormwater mitigation (underground chambers) are to be installed (see Items 14-16, inclusive, hereinabove).
- C) Plans are to be revised to indicate a gravel anti-tracking mat at the construction entrance.
- D) Plans are to be revised to indicate a storm sewer easement, in favor of the City of Milford, following the existing storm sewer.
- E) The CAM Report shall be revised in accordance with Item 13 herein above (provide additional information as necessary).

**Mr. Mortimer** seconded.

**Discussion:** None.

**Vote:** Motion **carried** with **Messrs. Agnese, Alling, Anderson, Hirsch, Kaligian, Macchio, Mortimer, Quish, and Satti voting with the motion.**

**104 Edgewater Place** (Zone R-12.5) Petition of Kevin Curseaden, Esq. for a Coastal Site Plan Review to construct a single-family dwelling on Map 045, Block 513, Parcel 39, of which Brenton C. Artz is the owner.

Mr. Sulkis advised that an intervenor application was received for this application. He read into the record Intervenor Instructions for 104 Edgewater Place, as follows:

*"In accordance with CGS 22a-19, Christopher McKenna of 24 Rose Street has asserted his right to Intervene. The City Attorney's office and the City Planner reviewed the petition and determined that the Intervenor is properly before the Board for the purpose of raising claimed environmental issues. As such, the intervenor is authorized to participate in the proceedings as a party.*

*Pursuant to 22a-18 the Planning and Zoning Board's scope of review is to determine whether:*

- 1. The proposed activity will or is reasonably likely to cause unreasonable pollution of the State's air, water, or other natural resources, and*
- 2. There are prudent and feasible alternatives to the proposed activity in order to protect the State's resources."*

*Process:*

- *The intervenor can then make his case regarding numbers 1 and 2 above.*
- *The applicant can rebut the Intervenor.*
- *The Board can ask questions of both parties.*
- *Once both parties have stated their case regarding the intervention, the Board will need to determine if the Intervenor has made a valid claim that:*
  - 1. The proposed activity will or is reasonably likely to cause unreasonable pollution of the State's air, water, or other natural resources, and*
  - 2. There are prudent and feasible alternatives to the proposed activity in order to protect the State's resources."*
- *The Board will then vote on the validity of the claim made by the intervenor based on the above.*

Attorney Curseaden asked if he could discuss the verified pleading that was filed because he disagreed that the intervention is properly before the board. He said the verified pleading does not identify any specific environmental harm and was just a recitation of the regulatory language of the Coastal Area Management (CAM) act.

Chairman Quish said he had decided to allow intervenor to speak. Attorney Curseaden yielded, saying he wanted to get his objection on the record.

Attorney Joel Green, of Green and Gross, PC, Bridgeport, spoke on behalf of his client Christopher McKenna, 24 Rose Street. Attorney Green referenced the verified notice of intervention, his letter of 1/16, his letter to Attorney Curseaden, and his view that a public hearing on the matter was required. He reviewed the petition, although he said his argument was mainly put forth in his letter to the board. He said the claim of environmental harm involves consolidating 4 small strips of land to create a residential building lot. He said the Coastal Management Act requires zoning compliance and that the construction of the proposed home will impair coastal vistas and views currently provided by the properties.

Christopher McKenna addressed the board. He said his backyard abuts Edgewater Place and that there are no houses on it except for one, but the area does support a great deal of boating activity and recreational walking. He was concerned that 10-12 houses could eventually be built there. Chairman Quish asked Mr. McKenna to remain focused on the intervention topic. Attorney Green asked Mr. McKenna to comment on the house at 94 Edgewater Place and on the view from Edgewater Place. Chairman Quish said the view is not germane to the intervenor status and that he wanted to keep the presentation specific to see if the intervenor's burden had been met. Attorney Green said the visual quality of scenic vistas are considered for impact and specifically protected under CAM act. Chairman Quish asked if the view in question was available to the public way or only to private lots. Attorney Green said the view was available to the general public and that vistas are contemplated by the act. He asked if public comment could be shared; the chair said not until next meeting. Attorney Green said that with the understanding that there will be a public hearing, he would rest.

Attorney Curseaden resumed his remarks. He said the purpose of CGS 22-18 is to focus on environmental issues and that he did not hear such arguments. He asked PE Ron Wassmer for comment on the design. He said that for the record, the application should not be made a public hearing and that doing so is a violation of the uniformity act because stricter scrutiny of certain applications is a violation. He said that only the ZBA can vary the regulations.

Attorney Green asked to be heard, saying that the statute says that a public hearing can be held on a CAM. Attorney Curseaden said that if the board wants to hold a public hearing, agreement from 20% of abutters should be used.

**Attorney Green** said he will withdraw the petition if he can be heard at a public hearing. **Mr. Satti** said that if the board wishes to hold a public hearing, there should be a motion. **Mr. Kaligian** said he agreed with Mr. Satti. **Mr. Sulkis** said he was assured that the chair can do it, but if the board wanted consensus, they could seek it. He advised that the vote on the intervenor be held first in case the board voted not to have a public hearing. **Chairman Quish** said several issues make this situation different from other CAMs as the lots were intended for docks. **Mr. Hirsch** asked if the lots were valid building lots; **Chairman Quish** said there seemed to be a difference of opinion, but they are nonconforming lots. **Mr. Hirsch** asked to question Attorney Green; **Chairman Quish** said only if the topic pertains to health and safety. **Mr. Hirsch** said that by challenging the legality of the lots, a legal argument already had been opened.

**Attorney Green** then said that CGS 22-2 109 states that holding a public hearing requires a vote.

**Chairman Quish** rejected the comment. Several board members expressed support for a public hearing. **Chairman Quish** then made a motion to hold a public hearing, which was seconded by **Mr. Agnese**. **Mr. Kaligian** asked that the motion be repeated.

**Chairman Quish** moved to carry the item over to the next meeting be heard at the next meeting and to have the application heard as a public hearing. **Ms. Greene** confirmed that **Mr. Agnese** would still second the motion.

**Discussion: None.**

**Vote:** Motion carried with Messrs. Agnese, Alling, Anderson, Hirsch, Macchio, Mortimer, and Quish voting with the motion.

**Messrs. Kaligian and Satti voted against the motion.**

**Attorney Green** said he would **withdraw** the petition as intervenor. **Attorney Curseaden** agreed to wait to make his presentation until the public hearing.

#### D. PUBLIC HEARINGS

CLOSE BY MARCH 21, 2024; VOTE BY VOTE BY APRIL 27, 2024

**Proposed Regulation Change #23-14** Petition of Sara Sharp, Esq., for a change to Milford Zoning Regulations Article V, Section 5.1.4, Figure 4, Minimum Off-Street Parking Requirements.

**Attorney Sharp** handed out information and addressed the board. She said she represented a restaurant called Raising Cane's that wishes to operate at 1455 Boston Post Road. She said the fast-food chain is based in Baton Rouge, LA, and specializes in chicken fingers. She noted that no parking standard is associated with a defined fast-food use; **Mr. Sulkis** said such restaurants usually had to conform to regular parking standards. She said she had surveyed other CT towns to determine how parking is calculated and learned that the gross floor measurement used by Milford results in over-parking. She said she wanted to craft a parking standard to reflect accurate usage and to reduce impervious surfaces for this and other fast-food restaurants. She presented Google-Earth images for the Milford Panera and Chipotle which, despite their popularity, showed 30-50 % of their parking lot unused. She said other towns use the patron floor area to generate the parking ratio, and others use floor area excluding the kitchen and back of house. She proposed a standard of 1 space for each 150 sf of floor space excluding storage, such as freezers, and rest rooms including larger ADA-compliant ones. She said that if the regulation change was granted, she would return for a Special Permit featuring a fleshed-out plan. She said her clients felt the location would be successful, noting its proximity to Taco Bell and Boston Market. She noted that the city is already trying to update parking and the proposal had received a favorable staff review.

**Mr. Sulkis** read his administrative summary, which was consistent with the presentation. He said the plan is consistent with the POCD.

**Mr. Anderson** asked Attorney Sharp if she was aware that the lot was a cut-through between Roses Mill Road and Boston Post Road and what percentage of the use would be takeout food. **Attorney Sharp** said traffic details would be examined under the Special Permit and upwards of 70% of the menu is takeout food. She said the menu is limited and makes for high efficiency.

**Mr. Satti** affirmed that 16-19 spaces would result and noted that the entrances and exits affect parking. He asked Mr. Sulkis how many fast-food restaurants would be affected; **Mr. Sulkis** wasn't sure but said most were concentrated on the Post Road. **Mr. Satti** said he thought the focus of the POCD was on reducing residential parking. **Mr. Sulkis** said the POCD recommends modernization of all aspects of the Milford Zoning Regulation, which would include parking. **Attorney Sharp** provided more detail on her research of other towns' standards, noting that some types have large storage requirements whereas smaller eateries like Dunkins have less

storage as they carry more fresh food. **Mr. Mortimer** asked about surrounding towns; **Attorney Sharp** provided examples ranging from Westport to West Haven. **Chairman Quish** asked how many employees would be working at any given time; **Attorney Sharp** said a maximum shift might have between 9-16 workers, most of whom take public transport. More attempts at defining specific implementation details ensued until **Mr. Satti**, while praising the presentation, said he was less concerned about lack of parking in this location, but very concerned about other areas, and that there would not be enough parking with a drive-through. **Mr. Hirsch** agreed that more cars on the roads was a risk of reducing parking capacity. Discussion ensued on design elements of drive-throughs and queueing concerns. **Mr. Sulkis** stressed that if a standard is created, applications that meet the standard must be approved. He noted that the regulations already specify how many queueing spaces. **Attorney Sharp** said that in the Special Permit process offsite traffic impacts can be examined. She shared more specifics on parking ratios and underscored that the ratio would be limited to fast food restaurants as defined in the Milford Zoning Regulations.

**Chairman Quish** asked for public comment. Hearing none, he closed the hearing and asked for a motion.

**Mr. Agnese moved to approve as presented** the Petition of Sara Sharp, Esq. for a change to Milford Zoning Regulations Article V, Section 5.1.4, Figure 4, Minimum Off-Street Parking Requirements, **Effective Date:** February 23, 2024

**Second:** **Mr. Mortimer** seconded.

**Discussion:** **Mr. Hirsch** said that if the change were approved, the board will have to pay close attention to traffic studies. **Mr. Satti** said he was not in favor, noting concerns about 3<sup>rd</sup> district restaurants with parking on streets. **Mr. Mortimer** said he felt the idea wasn't fully clear and wanted more discussion. **Chairman Quish** said he thought the plan was well thought out and is consistent with what other towns are doing. **Mr. Hirsch** said he agreed with Mr. Satti. Discussion ensued about the nature of fast food restaurants with **Chairman Quish** noting that the lack of waitstaff is a distinction.

**Vote:** Motion **failed** with **Messrs. Agnese, Alling, Kaligian, Macchio, and Quish voting with the motion** and **Messrs. Anderson, Hirsch, Mortimer, and Satti voting against the motion**.

**Proposed Regulation Change #23-5** Petition of the Planning and Zoning Board for a change to Milford Zoning Regulations Article V Flood Hazard and Flood Damage Prevention Regulations Section 5.8.13.4, Elevated Buildings.

**Mr. Sulkis** reviewed the application, saying the proposed language change makes it consistent with other Milford Zoning Regulations on flood elevation. He said more detail is provided on the uses of access, parking, and storage and that only 10 words were being added.

**Chairman Quish** asked for public comment. Hearing none, he closed the hearing and asked for a motion.

**Mr. Satti moved move to approve as presented** the Petition of the Planning and Zoning Board for a change to Milford Zoning Regulations Article V Flood Hazard and Flood Damage Prevention Regulations Section 5.8.13.4, Elevated Buildings. **Effective Date:** February 23, 2024

**Second:** **Mr. Hirsch** seconded.

**Discussion:** None.

**Vote:** Motion **carried** with **Messrs. Agnese, Alling, Anderson, Hirsch, Kaligian, Macchio, Mortimer, Quish, and Satti voting with the motion**.

**Proposed Regulation Change #23-8** Petition of the Planning and Zoning Board for a change to Milford Zoning Regulations Article IX, Section 9.2.4 Approval of Location; and Section 5.4.1 Commercial Garage and Service Station Regulations.

**Mr. Sulkis** reviewed the application with the board, saying the change brings Milford Zoning Regulations in line with state legislation for certificate of approval of locations for any automotive uses.

**Chairman Quish** asked for public comment. Hearing none, he closed the hearing and asked for a motion.

#### DISCUSSION

**Mr. Mortimer moved to approve as presented** the Petition of the Planning and Zoning Board for a change to Milford Zoning Regulations Article IX, Section 9.2.4 Approval of Location; and Section 5.4.1 Commercial Garage and Service Station Regulations.

**PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 6 FEBRUARY 2024, 7:00 PM**

**Effective Date:** February 23, 2024.

**Second:** Mr. Hirsch seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously.

**Vote:** Motion carried with Messrs. Agnese, Alling, Anderson, Hirsch, Kaligian, Macchio, Mortimer, Quish, and Satti voting with the motion.

**E. OLD BUSINESS**

**D. LIAISON REPORTS—Mr. Sulkis** said he had the pleasure of seconding the nomination of Mr. Satti to become secretary of the South-Central Regional Council of Governments.

**E. SUBCOMMITTEE REPORTS—Chairman Quish** advised that the Regulation Subcommittee had agreed to submit 2 proposed changes for circulation. **Mr. Sulkis** said Milford's regulations required revision to conform to the state statute that made day cares and group homes in residential zones a matter of right. Similarly, changes are required to adjust the amount of parking required for multifamily dwelling units because the Milford Zoning Regulations call for more parking than the statute now allows. At Chairman Quish's request, Mr. Sulkis also described for the new board members how proposed regulation changes are made, discussed, and if approved by the full board, circulated to the regional planning board and neighboring towns for comment. After the appropriate interval, proposed changes are then put on an agenda for a public hearing. A voice vote to circulate both proposed changes to the Milford Zoning Regulations was unanimous.

**F. APPROVAL OF MINUTES—1/2/2024** minutes were approved unanimously.

**G. CHAIR'S REPORT – Chairman Quish** welcomed Mr. Mortimer back to the board.

**J. STAFF REPORT** - None.

**K. ADJOURNMENT** was at 8:33.

Attest:

M.E. Greene

New Business, not on the Agenda, may be brought up by a 2/3's vote of those Members present and voting.

ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, (203) 783-3230, FIVE DAYS PRIOR TO THE MEETING, IF POSSIBLE.