

**MINUTES FOR THE MEETING  
OF THE PLANNING AND ZONING BOARD  
HELD TUESDAY, MARCH 5, 2013; AT 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the Tuesday, March 5<sup>th</sup> meeting of the Planning and Zoning Board at 7:30 p.m.

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

**B. ROLL CALL**

**Members Present:** Jeanne Cervin, Ben Gettinger, John Grant, Edward Mead (Vice Chair); Dan Rindos, Michael Casey, Tom Nichol, Mark Bender (Chair); Ward Willis (7:40 p.m.)

**Not Present:** Joseph DellaMonica, Jr.

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

**Chairman Bender:** Agenda item D 1. 64 Riverside Drive will be postponed until the March 19, 2013 meeting due to the unavailability of Mr. Sonnichsen to attend tonight's meeting.

**C. CGS 8-24 APPROVAL – DAWES STREET EXTENSION ABANDONMENT (ZONE SFA-10)** - Request under Connecticut General Statutes 8-24 for approval to abandon the unimproved portion of Dawes Street located between #34 and #46 Lindy Street located on Map 57, Block 712, between Parcels 82 and 84.

**Mr. Sulkis:** Stated the Board had a map that showed the Dawes Street Extension. There has been a request to abandon the extension. The City has investigated it. All the department reports have been received and none have an issue with this. If the Board votes to abandon the extension it will be passed on to the Board of Aldermen for action.

**Ms. Cervin:** Asked if the City owned this property and was it abandoning it and it is being bought by a property owner?

**Mr. Sulkis:** It is an accepted City street. It was never improved. In those cases by statute in the state on common law, the assumption is that when a street was created the land came from somewhere. What the City would be doing is actually dividing that parcel down the middle between the two adjacent properties and giving one portion to one of the abutting property owners and the other portion to the other property owner.

**Chairman Bender:** Asked if a property owner does not want it because it will increase his taxes.

**Mr. Sulkis:** That is what created this situation. They requested to buy it. That could not be done but the City could abandon it and give them more land. At least one of the owners wants the land. Not sure about the other.

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**Mr. Mead:** Made a motion to approve the City's request under Connecticut General Statutes 8-24 for approval to abandon the unimproved portion of Dawes Street located between #34 and #46 Lindy Street located on Map 57, Block 712, between Parcels 82 and 84, of which the City of Milford is the owner.

**Mr. Gettinger:** Second.

**Chairman Bender:** Upon the Board's approval the matter will go before the Board of Aldermen for their approval

All members present voted for approval

**D. PUBLIC HEARING LEFT OPEN – CLOSE BY 3/26/2013; expires on 5/30/2013**

1. **64 RIVERSIDE DRIVE (ZONE R-12)** Petition of Robert Sonnichsen, PE, for a Special Permit and Coastal Area Management Site Plan Review to construct a residential dock on Map 18, Block 363, Parcel 10, of which 64 Riverside LLC is the owner. **POSTPONED to March 19, 2013.**

**PUBLIC HEARING CLOSED 2/19/2013; expires on 5/30/2013**

2. **MANDATORY FEMA REVISIONS TO FLOOD HAZARD REGULATIONS AND MAPS**

The Planning and Zoning Board on behalf of the City of Milford is required by the Federal Emergency Management Agency (FEMA) to adopt revised Flood Insurance Rate Maps (FIRM) based on FEMA's updated coastal flooding studies and risk analysis as part of FEMA's RISK Map Update Project and in order to continue to participate in the National Flood Insurance Program (NFIP) with associated regulation changes.

**Ms. Harrigan:** If the maps are not approved the City gets put on probation and possibly suspended from the NFIP, so the maps have to be adopted.

**Mr. Grant:** There are some changes that are options. What changes should be adopted or not adopted?

**Ms. Harrigan:** Suggested the Board review each regulation change by line item so the Board members are aware of what each item represents. She suggested the Board approve the flood maps and the first section which is a reference to the maps, specific by panel, based on their effective date. Those would be the two mandatory changes that are required as part of this process. The other changes that are optional in nature should be discussed point by point before a decision is made.

**[A short recess was taken from 7:40 to 7:44 pm to word the motion for approval of the flood maps from 7:40 to 7:44]**

**[Ward Willis entered the meeting at 7:40 p.m.]**

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**Mr. Mead:** Made a motion to accept the mandatory FEMA Revision to the Flood Maps and to update Section 5.8.2 zoning applicability of the flood panels that go into effect July 8, 2013 and a couple of Flood Insurance Rate Maps (FIRM) dated July 8, 2013, Panel Numbers 09009C0526J, 09009C0528J, 09009C0529J, 09009C0531J, 09009C0532J, 09009C0533J, 09009C0534J, 09009C0536J, 09009C0537J and 09009C0551J and on December 17, 2010 Panels 09009C0414H, 09009C0418H; 09009C0419H and 09009C0527H.

**Mr. Grant:** Second.

All members voted in favor.

**Chairman Bender:** The effective date will be March 29, 2013 and will be noticed in the Milford Mirror on Friday, March 14, 2013.

The individual regulation changes will be addressed next.

**Ms. Harrigan:** Explained the optional regulation changes from her memo of February 15<sup>th</sup> to the Board, as well as from the letter addressed to her from the DEEP:

1. Section 5.8.14.1, which limits development below the mean high water line. That is the minimum federally required language. In the City of Milford you cannot allow construction below the mean high water line. Since there are areas in Milford, i.e. the finger streets near Silver Sands that would be affected by this regulation, she did not recommend adopting it. Until it is figured out what the real coastal jurisdiction is in those areas, this regulation change has the potential to cause more harm than good.

**Chairman Bender:** Agreed with Ms. Harrigan's evaluation.

**Ms. Harrigan:** The next optional regulation change is the definition for Substantial Improvement.. At this time the definition reads "***Improvement, substantial. Any repair, reconstruction or improvement of a structure taking place during a ten year period in which the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement as determined at the beginning of such ten year period. The term includes structures that have incurred substantial damage regardless of the actual work performed.***" She believes this regulation is an attempt to clarify when you determine what the value is for substantial improvement. It applies to the time just before construction starts.

When this is being tracked, you look at what the percentage was previously for every new event, you look at the market value at the particular time. So that market value does not stay with you over the course of, for example, a five year period. If someone decides to remodel a bathroom in 2010 and then they decide to do a full kitchen remodel in 2011, you would have to look at the market value before the start of each construction project and then you would have to add those things together. If it was spaced farther apart, you would not maintain a 2010 value for work that is happening in 2016. The value would change over time and you would change your analysis relative to that value each time that that work is performed.

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**Ms. Cervin:** Made a motion to add the following wording to the definition of Substantial Improvement: *“Any repair, reconstruction or improvement of a structure taking place during a ten year period in which the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement as determined at the beginning of such ten year period.”*, as recommended by Staff.

**Mr. Rindos:** Second.

All members voted in favor.

**Ms. Harrigan:** The proposed revision on substantial damage proposed revision was taken care of in the December meeting. The last recommended regulation proposed by the DEEP is the “Limit of Moderate Wave Action” section.

Ms. Harrigan explained the theory behind this regulation and its potential to cause structural damage. She described FEMA’s research into this and recommended that people within this particular area should build to the VE standard, meaning build on piles and piers instead of solid foundation walls. Her concern was if the regulations are adopted would the homeowners be in a situation where before the limit of moderate wave action was identified, they had built to the AE standards and they did not know they should have been building to piers and post construction. Congress controls this program and at this time the NFIP representative said there is only incentive to do it. There is no penalty if you do not build to the VE standards within the AE limit of moderate wave action zone. She agreed with FEMA’s study.

She asked if the Board wanted to recommend these as a requirement for structures within this zone or does the Board want to adopt a hybrid of the recommendation where the zone is identified but it is highly recommended that the homeowner build to this standard, thereby not tying the homeowner’s hands.

**Chairman Bender:** Thought by leaving this resolution optional, Ms. Harrigan can still inform the public without making the change mandatory. Her reputation in guiding the homeowners in rebuilding in light of the past storms has been excellent.

**Mr. Rindos:** Asked approximately how many homes would be affected.

**Ms. Harrigan:** Did not know but perhaps the GIS department could provide this information. The high velocity wave zone runs mostly along all of East Broadway. It affects most of the waterfront homes that are on East Broadway facing the water, and in other areas it mainly depends on the topography. The high velocity wave zone areas can be extensive.

**Chairman Bender:** Recommended for the next meeting Ms. Harrigan provide language for the optional or hybrid regulation change. He also suggested getting the information from GIS to see who this change would most likely impact.

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**E NEW BUSINESS**

**3. REQUEST FOR BOND RELEASE – 89 POND POINT AVENUE SUBDIVISION**

Request by Two Ninety Six LLC for the release of the maintenance bond in the amount of \$2,830.00, in accordance with the memo received from Bruce C. Kolwicz, Director of Public Works, dated February 25, 2013.

**Mr. Casey:** Made a motion to release the maintenance bond in the amount of \$2,830.00 in accordance with the memo received from Bruce C. Kolwicz, Director of Public Works, dated February 25, 2013.

**Mr. Willis:** Second.

All members voted in favor.

**4. PROPOSED CHANGE TO THE PARKING TABLE WITHIN THE ZONING REGULATIONS**

**Mr. Sulkis:** The Board has received the proposed parking changes that were previously discussed by the Staff and the Board. The change is to parking for health clubs and the word “gymnasium” is being added for descriptive purposes going from the present regulation of 1:50 SF to the 1:125 that the Board approved and thought was a good standard when Crunch Fitness came before the Board.

Staff is also recommending a change back to the former standard for the MCDD and CDD-2 zones for multiple family dwelling units. The table that was provided indicated the change from the current 2 space minimum per dwelling unit to 1 to 1.5 spaces in the MCDD and CDD-2 and increasing depending on the number of bedrooms. The 2 spaces and above work best in condominium developments generally located outside the MCDD and CDD-2 areas. For the older, more dense areas such as MCDD and CDD-2, the proposed change is more appropriate.

**Chairman Bender:** Asked if there might be more descriptive language to incorporate that would include other exercise facilities to make sure no such facility would feel they are left out.

**Mr. Sulkis:** The information presented tonight is general Board approval of the language. It still has to go through the usual process for change.

**Chairman Bender:** Wanted to make sure all the health club, fitness descriptions be taken into consideration.

**Mr. Sulkis:** Noted that was his premise in adding the word “gymnasium” to further identify the use.

**Mr. Casey:** This use can also be added to Section XI – Definitions for clarification.

**Ms. Cervin:** Asked if indoor recreational facilities, i.e. soccer, baseball, roller rinks, etc. are included in these parking requirements?

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**Chairman Bender:** Upon review of the parking study that Crunch did, on the worst night the number was 133 parked vehicles or one space for 141 SF. Wondering if 125 was too tight.

**Mr. Sulkis:** The ratio of 1 space to 125 SF is the best compromise between the former ration of 1 to 250 SF.

**Chairman Bender:** You want enough parking but not too much asphalt. Also, the matter is perception vs. reality. The average fitness attendee wants to park close to the door. As far as the Board is concerned the decision should be what is adequate parking?

Discussion ensued about the space to square footage requirement. The Chair suggested more data be obtained. Mr. Sulkis noted that The Edge was a huge, multi-use building where The Edge is one small tenant in a significantly larger building. During the day almost all the parking was taken up, which included The Edge. Ms. Cervin asked if comparisons of parking in such instances could be made in neighboring towns. The Chair noted this information is available at the health clubs. It is all computerized. Mr. Sulkis noted the 1 space to 125 SF is the figure the Board settled on for this particular use when Crunch provided their data. The Chair noted that figure was more of a compromise because 1:50 was not reasonable. Mr. Sulkis said the parking cannot be based on how the space is being utilized. Different facilities have different offerings. He suggested the Board stick to this number as a reasonable average.

The parking study provided by Crunch was found not to be as comprehensive as the Chair would like. Suggested more data be obtained.

**Mr. Mead:** Asked if the parking change for Crunch was based on the fact that the square footage was under 20,000 SF? Would that be taken into consideration for a larger building?

**Mr. Sulkis:** That change was made for one particular zone. It was a way to tailor it for that zone. The thought would not be to limit the parking to the size of the facility. This would be a new standard for all health and fitness related clubs.

**Chairman Bender:** The Board will go forward with the 1:125 SF parking change. Work on the wording to see if the definition of gymnasium covers the facilities this regulation change would like to address.

**Mr. Sulkis:** Will work on writing a definition to be put in the back of the book.

**F. REGULATION SUBCOMMITTEE – Update**

**Chairman Bender:** The subcommittee met tonight. Reviewed 20 items as the first group of potential regulation changes. Can possibly have these ready for presentation to the Board for the next meeting, if not by the following meeting.

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**G. LIAISON REPORTS**

**Mr. Casey:** The Board of Aldermen approved the housing growth study that was approved by the Planning and Zoning Board as well as the approval for a balcony at 9-11 River Street.

**H. APPROVAL OF MINUTES – (2/19/2013)**

**Ms. Cervin:** Made a motion to approve.

**Mr. Grant:** Second.

All members voted in favor of approval.

**I. CHAIR'S REPORT** – The Chair signed two lot line adjustments. 30 Clinton Street and Hale Avenue.

Received a memo from Attorney Matthew Woods that the appeal for Voll vs. the Planning and Zoning Board was denied regarding 12 Francis Street.

**Ms. Cervin:** Noted she received a copy of the Downtown Plan. She thought it was part of the Plan of Conservation and Development but was told it is not and does not have to go through the same procedure as the Board.

**J. STAFF REPORT** - The BOA approved the Grant Application.

**Mr. Gettinger:** Motion to adjourn.

**Mr. Rindos:** Second.

The meeting adjourned at 8:30 p.m. The next Board meeting will be held on March 19, 2013.

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Phyllis Leggett, Board Clerk