

**MINUTES FOR THE MEETING
OF THE PLANNING AND ZONING BOARD
TO BE HELD TUESDAY, APRIL 2, 2013; AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the April 2, 2013 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, Benjamin Gettinger, John Grant, Edward Mead, Vice Chairman; Michael Casey, Joseph DellaMonica, Jr., Tom Nichol, Mark Bender, Chair. Ward Willis (7:35);

Not Present: Dan Rindos

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

- C. 1. CGS 8-24 APPROVAL** – Request by Mayor Benjamin G. Blake for approval to acquire sidewalk easements on 590, 596, 606, 612, 622 and 646 Gulf Street in accordance with the recently adopted Plan of Conservation and Development and Milford's walkable city initiative.

Gary Wassmer, City Engineer. A map showing the path of the sidewalks and area involved was distributed to the Board. The proposal for the extension of sidewalks is from in front of the Eveningside Subdivision that was done in 1998-2000, down in front of five properties to Old Field Lane. In order to do this the City is requiring easements. In addition to extending the sidewalks, the road will be widened anywhere from 5-7 feet down to nothing at Old Field Lane. There will be a minor retaining wall along one of the properties and some grading associated with that.

Ms. Cervin: Stated how pleased she was that this project will finally come to fruition after years of hoping there would be sidewalks in that area of Gulf Street. She asked who initiated it and how it will be paid for.

Mr. Wassmer: This project was most likely initiated many years ago by former City Engineer John Casey. Mayor Blake put bonding funds in for this project to fund the sidewalk initiative for a walkable city through the Board of Aldermen.

Ms. Cervin: Upon its approval, when would the work begin?

Mr. Wassmer: The plans are mostly complete. It would have to go out to bid and hopefully started by the beginning of the summer.

Mr. Mead: Asked if the curb would be cut off a bit in the road widening process and would there be a guardrail.

Mr. Wassmer: There will be a widening with a five foot snow shelf with the wooden timber Merritt Parkway type guard rail; something esthetically pleasing that also adds a level of safety. The sidewalks on the other side.

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Chairman Bender: Noted the 8-24 voting procedure and the next step in the process would be to go before the Board of Aldermen.

Mr. Mead: Made a motion to approve CGS-24 request by Mayor Benjamin G. Blake for approval to acquire sidewalk easements on 590, 596, 606, 612, 622 and 646 Gulf Street in accordance with the recently adopted Plan of Conservation and Development and Milford's walkable city initiative.

Mr. Gettinger: Second.

All members voted in favor of approval.

2. **CGS 8-24 APPROVAL** – Request by the Junior League for approval to install removable fences at the Bernard/Francis Field Complex.

Robert Wheway, PE, Codespoti & Associates, 504 Boston Post Road, Orange, CT appearing on behalf of Milford Junior Major League. Also present: George Spescha, President of JML; Paul Piscitelli, Director of Parks, Beach and Recreation and Chris MacEnerney, JML Member spearheading the fencing installation.

Subject property is owned by the City of Milford and is identified as being on Map 55, Block 501, Lot 1 with the address of 57 New Haven Avenue. The Junior Major League, Inc. is a non-profit organization that leases a portion of the field of the property from the City of Milford. The leased fields are commonly referred to as the Francis and Bernard fields.

Junior Major League provides services to the youth of Milford, over 700 players primarily baseball, from the period of April through October.

The application is to seek permission to install two separate removable safety outfield fences, one for each field, which he indicated were highlighted on the site display and the color diagram that was distributed to the Board.

A short video showing the proposed fencing was shown to the Board. It described the construction and removable panels. Height is adjustable and provides safety to the players. Grand Slam Safety LLC., 6415 Maple Street, Beaver Falls, NY 13305.

Prior to this application JML had requested to install permanent outfield fencing and was met with some opposition from the Oyster Festival Committee for a various reasons. Based on their concerns the fencing proposal was reevaluated and looked at a different design, the Safety Fencing that is before the commission tonight. In addition to the focus on safety was making the fencing removable, which would keep the fields for multi-purpose uses.

Mr. Wheway gave a history of the fields and its use for baseball. Over 20 years ago both fields had outfield fencing. It was taken down when the Oyster Festival was held. Public Works would take down the fencing and put it back up. This went on for many years.

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At some point the designation of the fields was changed with the age grouping and the fencing came down permanently. The field has remained open as it is today. Since that time there has been a number of near mishaps because of the way the outfields are configured and the way the players are hitting the balls. There have also been some situations where the outfielders have run into one another from the two different fields.

One of the things they want to achieve is eliminate or alleviate the safety issues. The fencing itself is a safety setup. With a chain link or more permanent type fence, injury might occur if a ball player is running to track a ball and runs into the fence, the fence will not provide resistance to the player and becomes a crash object for that fielder. If a player runs into the fencing, the fencing will take the beating and not harm the player.

The proposed fencing is also unique in that it is truly removable. The Board has received the information on Grand Slam Safety LLC and includes the assembly and disassembly of the fencing once it has been installed.

The fencing will also provide an enclosed ballpark field as opposed to the wide open field. A benefit of the enclosed park will be to give the players a more real home run experience. This is the same as other ball fields experience throughout the City.

The main components are the foul poles at each corner of the field. There are four foul poles that are approximately 20 feet in height and have relatively thick diameters. The poles provide the support for the fencing system. The mesh panels are approximately 20 feet in length and the ones proposed are 8 feet in height. Every 20 feet there is also an intermediate support post. Those posts will be set into a plastic sleeve embedded in concrete, which will be placed below ground.

He described where the concrete will be placed and how the fencing will be taken down and the holes plugged up. One of the main features of the post is to eliminate any tripping hazards and to provide a flush surface for where the posts were thereby making it into a multi-use field. There are two cable support systems, a top and bottom one. A sample of the mesh was shown around to the Board.

Chairman Bender: Who will be paying for the fencing?

Mr. Wheway: Fully funded by Junior Major League. The lease agreement reads that JML controls everything within the fence. Any capital improvements are its responsibility. This is an CGS 8-24 approval because concrete anchors are being put in the ground and JML is responsible for it.

Mr. Nichol: Will Francis Field with the removable fence have a gate for emergency vehicles to get into?

Mr. Wheway: There are two main gates used at the Oyster Festival for emergency access. There are other gates that has access for equipment such as for lawn maintenance. Mr. Wheway showed where the roads exist all around the perimeter of the field. These are not all shown on the diagram displayed.

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Mr. Nichol: Said he did not see a road where an ambulance could get into Francis Field.

Mr. Wheway: Indicated the existing road around the perimeter of the fencing.

Mr. DellaMonica: Noted the large size of the kids in JML who could hit the ball very hard. Asked if there would be new provisions for those players who will be blindsided on their back side once the fence goes up to protect the fielders who will not have the other fielders guide them when a ball is hit over the fence.

Mr. Wheway: In the past three years there has been a merger of age groups from 13 and up who are on a 90-foot diamond. Both those programs are using either Wasson Field or Milford Academy or Jonathan Law. Bernard/Francis is no longer used for the older players. The eight feet high fencing will help keep the balls within the individual ballparks. Grand Slam Safety also has an option to extend the fencing up to 12 feet high. Not doing so at this time.

Mr. DellaMonica: Due to inclement weather we have experienced, what are the warranties for damaged mesh and poles which will detract from the area and pose a hazard to the players. It has to look good all the time.

Mr. Wheway: Broken fencing or damaged poles would present a safety hazard. Will not let that situation occur.

Mr. Casey: Where will the fencing be stored when not in use.

Mr. Wheway: Via a drawing he showed a batting cage and storage sheds on the fields. If that is not enough there are other options off site that may be available. At the end of the season when the fences are taken down for the season, the fences will go into storage to keep them dry.

Mr. Casey: When will the fence be put up and when will it come down?

Mr. Wheway: The fields are in use now. Depending on the weather, the games could go into December. Typically April through October.

Mr. Willis: Asked about the buffer between the fences of each field.

Mr. Wheway: There is roughly six feet between fences at the tangent point.

Mr. Willis: That does not seem to be much room.

Mr. Wheway: That area is dead area with no activity out there. The drawing shows that.

Mr. Willis: Who will remove the fence and will there be a cost for doing so?

Mr. Wheway: Removal will be free through volunteers from Junior Major League. According to the company it should take an 1-1/2 hours to disassemble.

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Mr. Willis: Asked if there was an agreement with the Oyster Festival for removal.

Mr. Wheway: The Junior Major League holds the lease on the fields and leases it to the Oyster Festival with a stipulated agreement.

Mr. Mead: Will a private contractor do the concrete footings?

Mr. Wheway: Yes. There will also need to be design work and building permits obtained. May be able to do the work with inhouse labor. Depending on how extensive the work is.

Mr. Mead: Asked if there would be advertising on the fencing.

Mr. Wheway: The mesh fencing can support sponsor signs. Right now the advertising is along the outside fencing, but the fencing can accommodate advertising and would be of such a material as to not present a safety hazard.

Mr. Mead: Stated the signs should not be on the fencing for safety purposes.

Mr. Wheway: The signs are not made of metal and would be hung in such a way as to not present a safety hazard.

Mr. Bender: Asked if such fencing was in use around the country.

Mr. Wheway: Does not think there are any installations in Connecticut. According to the company in Upstate New York there are currently six active installations.

Mr. Bender: Said his point was that these fences are currently in use.

Mr. Wheway: Yes. He noted the sports where the fencing was being used.

Mr. Bender: Asked where the fencing would be stored during the Oyster Festival.

Mr. Wheway: Most likely in the batters cages because the non-usage would be very temporary during the Oyster Festival.

Ms. Cervin: Asked again about the signage and the regulations.

Ms. Harrigan: Noted that City properties are not subject to the zoning regulations.

Mr. Wheway: Stated sponsors and advertising has always existed at the playing fields. It is the only way the league has to make money which also subsidizes the registration fees.

Mr. Sulkis: Asked what the wind load rating is for the fence.

Mr. Wheway: Manufacturer recommends part of the tension on the fencing come down if there is a projected wind event of 60 mph or more. There will be prep work done if a hurricane or noreaster is projected. The poles and intermediate supports are rated for

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1000 pounds of pressure. When the foundations are designed this will all be factored in before it goes to the Building Department for permits.

Mr. Sulkis: Are any of the installations in coastal areas?

Mr. Wheway: The company is in New York and of the 6 installations that are known are in New York or Massachusetts.

Mr. Sulkis: In the event of a coastal storm, such as the City has experienced recently, who would be responsible for damages to properties, such as, cars, boats adjacent housing.

Mr. Wheway: The condos are quite a distance away, but one never knows. The only area that is down and open is the area off Bernard Field that goes out to the boat ramp and harbor area. The condos are up higher and have fencing around the back end.

Mr. Sulkis: How many hundreds of feet of 8-12 foot fencing will there be?

Mr. Wheway: Approximately 640 feet of fencing. They come down in 20 foot sections. The fabric is mesh and not a solid piece of material.

Mr. Sulkis: In the last storm many objects weighing more than the fencing got thrown a few hundred feet from where they were supposed to be.

Mr. Wheway: The fence would come down at the threat of any big storm. It is a safety fence that is a capital expenditure of approximately \$60,000. It will be in JML to protect this fencing and make sure it does not get damaged or destroyed.

Mr. DellaMonica: Made a motion to approve the request by the Junior League for approval to install removable fences at the Bernard/Francis Field Complex.

Mr. Casey: Second.

Chairman Bender: Asked for an amendment that this approval be contingent upon a Letter of Agreement with the City Attorney's office.

Ms. Cervin: Realized there was a safety issue but asked about insurance for any liability issues that were not the City's responsibility.

Mr. Wheway: As part of the lease agreement with the City they must provide Paul Piscitelli their insurance coverage annually, which are \$1million and \$2 million on the policies.

Mr. DellaMonica: Amended his motion to approve the installation of removable fences at the Francis and Bernard Fields to be contingent upon receipt of a Letter of Agreement from the City Attorney's office.

Mr. Casey: Seconded the amendment.

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Mr. Gettinger: Suggested the Board approve the request and let the Board of Aldermen deal with the liability issue.

The amendment to the motion was dismissed and the original motion was put to a vote.

All members voted in favor of approval for the Junior Major League to install removable fences at the Francis/Bernard Fields in Milford.

D. PUBLIC HEARING LEFT OPEN – CLOSE BY 4/25/2013; expires on 5/30/2013

3. **64 RIVERSIDE DRIVE (ZONE R-12.5)** 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.

(Mr. Casey recused himself and left the room)

Chairman Bender: The public hearing was left open to receive photos which were sent by Ms. Debbie Ann Levanti. The applicant can speak to the submittal of the photos and the public hearing will open just to address the photos.

Photos were passed around to the Board. The Board had also received a letter from Ms. Levanti.

Robert Sonnichsen, PE, Waldo and Associates, Guilford, CT. He stated he had realized that one of the planting lists had a misspelling and he thought it would be appropriate because the hearing was still open. He had revised the drawings with the spelling correction. He also went through the Sea Grant Coastal Planting Program and he chose two different kinds of plants which he thought would be an improvement to the Landscaping Plan.

Ms. Harrigan: Noted the Board could add a condition of approval that states “plantings to the satisfaction of Staff”.

Chairman Bender: Agreed to that manner of accepting the change. He would not take this information as part of a new submission.

Mr. Sonnichsen: Stated he reviewed the CD of the photos and thought they were self-explanatory. They showed the work that was done to install the driveway. He wrote a letter reviewing the situation outlining how the application complies and does not cause any adverse impacts to the coastal resources. He asked the Chair if he could submit this letter.

Mr. Bender: Stated the letter could not be admitted because it did not pertain to the photos which the public hearing was held open for.

Mr. Sonnichsen: Stated the letter did not pertain to the photographs.

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Mr. Bender: Denied the admission of the letter.

Ms. Harrigan: If his letter is in response to the letter from the neighbor which was accepted, his letter should be accepted as well. She noted the neighbor's letter did not pertain to the photographs.

Mr. Bender: Agreed to accept Mr. Sonnichsen's letter.

Ms. Cervin: Asked about the excessive driveway which was not on the site plan. She referred to the part of the driveway that extended beyond the apron. She asked if it would be removed as it is not on the site plan. This area of over 12 feet creates an additional parking space. It had been covered with snow but now it is visible.

Mr. Sonnichsen: It is shown on the site plan but not as part of the driveway and is gravel. This was put in at the request of the City Engineer.

Ms. Cervin: It is asphalt. The City Engineer asked for a driveway with an apron. He did not ask for an extended parking area.

A discussion ensued with regard to the apron and extended asphalt area which Ms. Cervin said was not included in the site plan and which creates another parking space. Mr. Sonnichsen held that everything in that area was done in coordination with the City Engineer's office.

Ms. Harrigan was asked if this asphalt area was put in before or after the DEEP review. The response was that DEEP review was specific to the improvements made within their jurisdiction area, with the exception of a small portion of the dock that connected to the land. None of the work that Ms. Cervin is discussing was approved by the DEEP.

Mr. Mead: Noted he revisited the site after the snow melted and the area Ms. Cervin is referring to is large enough to accommodate at least two cars on the left hand side.

Also, the site plan shows there is parking for three cars on the left hand side. He thought there was room enough for 4-5 cars.

Mr. Sonnichsen: It was the intention to show standard parking spaces for vehicles. There has to be an area for them to back out, but the parking spaces are for single vehicles.

Ms. Cervin: Asked if there would be two smaller boats for each owner. That would make four spaces for boats only for the use of the two property owners.

Mr. Sonnichsen: There is no designation for the number of boats. He described the dock area and where the boats would be. The area would be exclusively for the two owners.

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An agreement specific to the adjacent property was recorded on the land records after the last hearing. It allowed access of this dock to the adjacent property owner, which was approved by the DEEP.

Chairman Bender: Stated that goes against the City's zoning regulations, siting Section 3.1.2.16 (3), which allows dock use exclusively for the property owner.

Ms. Harrigan: Stated the DEEP intends one dock for two properties, which limits the number of docks that would be in this area.

Chairman Bender: Stated this contradiction between the DEEP and the zoning regulation as he reads the regulation, is an issue.

Mr. Mead: Referred back to a letter from the DEP dated October 20, 2009 wherein it states that the permittee was obligated to obtain approvals required by the applicable federal, state and local law. The opening paragraph stated the local planning and zoning office should be contacted to determine if there were local permits required on this project, and there were none obtained.

Mr. Sonnichsen: The applicant had a permit from the State and did the work was required. When the City notified him that he needed a permit for this work he immediately applied. They met with Staff who suggested the way to resolve this issue would be to apply for a Coastal Site Plan approval. Met with Staff many times and made all the requested modifications. They are under the impression the Staff supported their application. This is the only way to resolve this matter.

Chairman Bender: Agreed with Mr. Mead. The applicant did not go to the Planning and Zoning office as indicated in the DEP letter of October 2009.

The Chair opened the public hearing for the photos that were submitted. Anyone in favor of the application? (No response) Anyone opposed?

Debbie Ann Levanti, 69 Riverside Drive. The photos she submitted are self-explanatory that all this work was being done without permits. P & Z was notified every step of the way and they neglected their duties. Stated there are other parcels there as well. She thinks this will morph into more demands for utilities and further expansion.

Mr. Sonnichsen: The application was filed for the construction of the dock with three parking spaces with work done exclusively at 64 Riverside Drive, a single family residential lot. It has nothing to do with any other property. The application stands on its merit. Conjecture that there will be further applications is not relevant to this application and should not be considered.

Rebuttal:

Ms. Levanti: The dock is being shared with another property, 70 Riverside Drive. There are no private marinas. Protocol and procedures were not followed. This is a one-way street with no sidewalks.

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Final Rebuttal:

Mr. Sonnichsen: The application has nothing to do with the street, Riverside Drive, and how it can be accessed.

Ms. Harrigan is correct. The DEEP essentially forces you to put in a common dock. The City should consider this in that its regulations are not consistent with the requirements of the State.

Ms. Harrigan: It is less impactful from the coastal perspective. This is also in conformance with the Harbor Management Plan. The goal is to avoid having a dock for every single property and reduce some of the infrastructure improvements within the waterways.

Chairman Bender: Stated he understood what the DEEP is saying and agreed with its theory. The contradiction of the regulation that states not to do it creates the problem. This should be addressed.

Ms. Cervin: Asked about the regulation and would the Chair read it.

Chairman Bender: Section 3.1.2.16 District Use Regulations and Special Uses. You can have basically ..."private boathouses, landings or docks subject to the following conditions and safeguards." Number 3 "Such boating facilities shall be designated for the exclusive use of the owner." Number 1 "Shall be consistent with the Milford Harbor Management Plan as determined by the Milford Harbor Management Commission, the Milford Coastal Management Plan and the Connecticut Coastal Management Act".

Ms. Harrigan: The waterway is the jurisdiction of the State DEEP. Their permit has approved something that is less impactful than saying every individual homeowner needs to have a dock.

The Chair closed the public hearing.

Mr. Mead: Commented that he and Ms. Cervin revisited the driveway and apron on top. He noted that the Staff comments noted the applicant needs two waivers of nonconformity from engineering for the driveway slope and the apron design. Which he interprets to mean it was known that the apron design was made bigger than what was on the plans.

Ms. Harrigan: Thought the waiver from the Engineering comments did not relate to the width, but to the actual design of the apron itself. She did not believe the comments pertained to the total width of the site, which was Ms. Cervin's concern.

The Board will review the material submitted and discuss it at the next meeting.

(Mr. Casey returned to the meeting)

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E. NEW BUSINESS

4. **26 SAND STREET (ZONE R-5)** Petition of Joseph Codespoti for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 6, Block 87, Parcel 11, of which Ryan and Sam Utzler are the owners.

Joseph Codespoti, Jr., Codespoti & Associates, 504 Boston Post Road, Orange. Representing the applicants, Sam and Ryan Utzler. Also present is Brendt Jobst, Architect.

Via a display the site plan of the project was described. This parcel was part of an early subdivision. At one time there was a structure that was impacted by several storms. It was uninhabitable and demolished. Sand Street is a finger street off Milford Point Road toward to Audubon Society. The plan is to construct a single family home. The proposed structure was described on SP-2. The new structure conforms to all the FEMA guidelines. The impervious area is being increased minimally. A drainage report was submitted. There will be a rain garden to the west of the property. John Gaucher of the DEEP had no comments on this application. The tidal wetland to the north of the property was flagged by a soil scientist. The intent is to move the house as far south to the neighbor as possible to get it as far away from the tidal wetlands as practical. This is a fully developed residential neighborhood.

Ms. Harrigan: The applicants are requesting stairs into the attic. The owners are aware that an agreement for such stairs be signed by them and recorded on the land records, which will confirm that the attic will remain an unfinished area and cannot be living space. On April 1st the final memo from the Public Works Director was received who agreed with the City Engineer's comments.

Ms. Cervin: Asked if the area under the house was permeable.

Mr. Codespoti: The roof is not permeable. The rainwater coming off the roof will go into the rain garden.

Mr. DellaMonica: Asked what the standup height in the attic was.

Brandt Jobst, Architect, Wiles + Architects, Bridgeport, CT. The standup height inside the attic is approximately 5-1/2 feet. It was originally planned to have that space as a full walkup, but that could not be done. The secondary plan was to have a pull down attic stair unfinished attic. There is no storage space in the house because there is no basement. Requested attic stairs to the attic space for storage of furniture with the idea the space will never be finished. The area under the house where the cars will be parked is a frangeable slab. In the event of a flood it breaks apart, floats away and will not impact the structure. Under the deck is crushed stone dust so that the water can leach back into the ground.

Mr. Mead: Made a motion to approve 26 Sand Street, the petition of Joseph Codespoti for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 6, Block 87, Parcel 11, of which Ryan and Sam Utzler are the

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owners. An Attic Stairs Agreement requiring the attic to remain unfinished and not be used as living space, will be signed by the owners and recorded on the Land Records.

Mr. Gettinger: Second.

Ms. Harrigan: The Board will most likely be receiving more of these attic stairs requests, especially after the Sandy damage. Perhaps simplify the language to say, "With an attic approved per the plans...". The way the regulations define an attic is very specific. It it does not meet the criteria, the Planning and Zoning Board have the requirement to approve it and then add "With an agreement to be filed on the Land Records".

Chairman Bender: The motion will read the Board is approving Sand Street per the Attic Plan as submitted with the agreement it will remain unfinished and be filed on the Land Records.

Mr. Gettinger: Second.

All members voted in favor.

F. PROPOSED CHANGE TO THE PARKING TABLE WITHIN THE ZONING REGULATIONS – Discussion

The Board discussed every aspect of the proposed regulation change and the proposed wording of same.

The following definition was accepted by the Board:

Healthclub/gymnasium: A place where exercise/physical training/indoor sports take place on either an individual or group basis, that may or may not utilize equipment of any kind.

The definition of Healthclub/gymnasium and the 1/125 parking space for health clubs in the MCDD and CDD-2 zones will be sent to the required regional agencies and towns for their review, after which time a public hearing will be held. Upon final approval by the Planning and Zoning Board, it will be added to Article XI - Definitions, of the Zoning Regulations.

G. REGULATION SUBCOMMITTEE – Update

A month from tonight there will be a list of proposed regulations to present to the Board.

H. LIAISON REPORTS

Mr. Casey: The Board of Aldermen approved 0 Robert Dennis Drive.

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I. APPROVAL OF MINUTES – (3/19/2013)

Mr. Gettinger: Motion to approve.

Mr. Willis: Second.

All members voted in favor

J. CHAIR'S REPORT

The Chair read a letter received from John Knuff with regard to an update of the bus stop at Buy-Buy baby. The Chair read the letter.

Regional Planning Commission report.

K. STAFF REPORT

Free transit seminar in Bridgeport on Thursday morning.

Mr. Nichol: Made a motion to adjourn.

Mr. Gettinger: Second.

All members voted to adjourn the meeting at 9:26 p.m. The next Planning and Zoning meeting will be held on Tuesday, April 16, 2013.

Phyllis Leggett, Board Clerk